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ECONOMICS AND POLITICS IN MARYLAND, 1720-1750

AND THE

PUBLIC SERVICES OF DANIEL DULANY THE ELDER

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ECONOMICS AND POLITICS IN MARYLAND, 1720-1750

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CHAPTER I

Conditions and Controversies Before 1730

During the second decade of the eighteenth century a great change took place in the politics of Maryland—the close of the Royal government and the re-establishment of the Proprietary.[1] The most interesting figure in the politics of the time is that of Capt. John Hart, the worthy but hot-tempered Governor, whose régime lasted from 1714 to 1720. With apparently the best of intentions, he was always embroiled in one dispute or another, but his government left a valuable legacy to Maryland in the revised code of laws, winning thereby the praise of lawyers and historians. The factions of the Revolution of 1689 were still quarreling, and the most serious source of disquiet was the insubordination of the Roman Catholic element, which continued up to the very end of Hart's government.

The successors of Captain Hart were chosen from the Proprietary family. Charles Calvert, a cousin of the young Proprietor, ruled from 1720 to 1727; Benedict Leonard Calvert, the Proprietor's brother, was Governor to 1731; then Samuel Ogle served three separate terms, from 1731 to 1732, from 1733 to 1742, and from 1747 to 1752. During the first interval in Ogle's government the Proprietor visited the colony and ruled in person; in the second, power was in the hands of Thomas Bladen, a native of the province. From 1752, the two long administrations of

[1] For a detailed account of this important period the reader is referred to Steiner, B. C., The Restoration of the Proprietary of Maryland and the Legislation against the Roman Catholics during the governorship of Capt. John Hart. Report No. VIII in American Historical Association for 1899.

Horatio Sharpe and of Robert Eden brought to a close the provincial history of Maryland. Eden has been the subject of a very interesting biography by Dr. Steiner, and an account of Governor Sharpe's regime is promised by another writer. To the period which intervenes between the end of Hart's government and the beginning of Sharpe's practically no recent work has been devoted, except the general treatment given by Mereness.[2] Of the characteristic features of this interval a brief statement is advisable.

If the departure of Governor Hart brought an end to the quarrels which had so disturbed his government, there were other disputes to fill their place. It has long been the traditional view of Maryland history that the restoration of the Proprietary rule ushered in a golden age of peace. To take a single illustration, George Chalmers, who found in the history of Virginia during the same period little either to inform the understanding or to improve the heart,[3] states that "the province of Maryland, prosperous yet unenterprising, will throw few materials into the collections of history during the present reign. The successive administrations of Calvert, of Ogle, of the Proprietary in person, were equally peaceful. This circumstance shows that since few causes of contest existed among a placid people, no new foundation for quarrel was laid."[4] Whereupon he proceeds to a contrast between Massachusetts and Maryland very flattering to the latter. But this theory of a *dolce far niente* province is far from the true one, and can be held by no one who reads the Journals of the Assembly or the Calvert Papers. For it appears beyond question that, if in the second period of Proprietary government there was less misgovernment than in the first, there was quite as much dispute. So strong, however, was the legal influence at this time—

[2] Mereness, Maryland as a Proprietary Province.
[3] Chalmers, G., Introduction to the History of the Revolt of the American Colonies, Vol. II, p. 161. [4] Ibid., p. 159.

and indeed through the Revolutionary period—that this opposition was expressed in a constitutional manner. If, then, Maryland was not drawn deeply into the French wars, if she experienced little difficulty with the neighboring Indians, and if her affairs were comparatively neglected by the government of England, the Lower House nevertheless attacked one after another of the prerogatives formerly possessed by the Proprietors, and by repeating, upon a miniature scale, the evolution of the mother country from a feudal state, prepared the colony for the time when it should assume the position of an independent commonwealth.

Under Charles and Benedict Leonard Calvert, neither of whom was a strong Governor, the Lower House reopened the dispute concerning the extension of the English Statutes. This was a legal controversy of the first importance, and the leadership of the Assembly throughout its course was the special work of the Attorney-General of the province, Daniel Dulany, the elder. Though, in this paper, frequent reference will be made to the English Statutes matter, detailed discussion will be reserved for fairer treatment in a separate essay. Here, however, may be noted one thing which marks this off from the other controversies of the time; namely, that it was of a doctrinaire character, and involved no financial question nor any particular prerogative of the Proprietor. Besides this, which after ten years was compromised, in 1732, there were many other quarrels, of which the most important were first, those which had an economic foundation, and comprised the attacks of the agricultural population upon the privileged classes—the lawyers, the clergy, and the officers of state; and secondly, the financial disputes—the quarrel between the Houses over the salary of the Council, and the attempts to shear one or another of the Proprietor's revenues. It should be remembered that this division is for logical arrangement, and that in point of time these quarrels were continually interwoven. In this paper, the purely

financial wrangles—the attack upon the Proprietor's revenues—will be subordinate to the agitation connected with the economic state of the province, which began somewhat before and which was active during the second quarter of the eighteenth century. Properly to understand this agitation, however, one must review briefly the economic condition of Maryland when this period opens.

Between "Leah and Rachel, or the Two Fruitfull Sisters," as Hammond calls the colonies of Virginia and Maryland, were many points of likeness. To both the Chesapeake Bay with its branching rivers served as a common highway; in both the tidewater region afforded the same soil and very similar conditions of climate. Life, and especially agricultural habits, were, therefore, very much the same, and in each province these soon resulted in the production of one staple, tobacco, cultivated by the labor of white servants or of negro slaves.[5]

By the settlement of Maryland, under the separate jurisdiction of Lord Baltimore, and by the jealousies which ensued, regulation of the trade in either colony was rendered difficult.[6] Later, the commercial legislation of England restricted the market formerly available to the planters and vexed with limitations the transportation of the crop.[7]

Of late years there have been attempts to minimize the evil effects of the Navigation Acts and Acts of Trade. "The complaints of the Virginian planters soon died away"; "The planters had the sense soon to leave off grumbling at the Enumeration," are the words of Professor Ashley.[8] This argument for the harmlessness of the

[5] For Virginia, see Bruce, Economic History of Virginia in the Seventeenth Century: throughout, and especially Vol. I, Chaps. VI and VII. Cf. also Ballagh, A History of Slavery in Virginia.

[6] Bruce, ibid., Vol. I, pp. 318-319.

[7] Ibid., Chaps. VI and VII, passim.

[8] Ashley, The Commercial Legislation of England and the American Colonies, in (1) Quarterly Journal of Economics, November, 1899; (2) Surveys, Historic and Economic, 1900. The facts and argument are largely based upon Beer. The Commercial Policy of England toward the American Colonies.

commercial legislation with respect to the southern colonies is not borne out by the evidence collected by Bruce, nor by documents which belong to the period subsequent to that of which Bruce treats. But the planters seem to have come to regard this as not subject to remedy, and to have found additional causes for complaint about the tobacco trade. One of these further difficulties, in the eighteenth century, was the control over the tobacco trade and the colonial planters by the tobacco merchants in London, who constituted a capitalist class to which the planters were continually in debt. Having them thus dependent, the merchants added charges upon charges for which, it was alleged, they had no just claim, and which, as a matter of fact, were authorized by no law.[1] The relation of these merchants to the Maryland trade will be discussed hereafter. Of their organization, and of the exact details of their control of the trade little has been written, for their chief importance seems to have developed in the eighteenth century, with reference to which, from the economic standpoint, the histories of Virginia are disappointingly meagre.

In spite of these difficulties, however, the production of tobacco increased enormously, and practically to the exclusion of all other commodities, from silk to sassafras. When the supply thus exceeded the demand, the price which the planters could obtain for their crops fell more and more, and thus another evil burden was added to the tobacco trade. Both in Virginia and in Maryland many attempts were made to remedy this by legislation, and after

[1] These complaints are frequent, but see especially The Case of the Planters of Tobacco in Virginia as represented by Themselves. London, 1733. This complaint of the Virginians, signed by the President of the Council and the Speaker of the House of Burgesses attacked especially the requirement of the English Law that the merchants should be bonded for the payment of the duties on tobacco, which gave opportunity for the oppressive charges made by them upon the planters. As remedies, they proposed governmental supervision, the reduction of the duties, the substitution of internal for import duties, and better regulation of other details.

some time Virginia succeeded. In Maryland, on the contrary, at the time of the Revolution of 1689, all laws to control the production and export of tobacco had expired, failed to pass, or proved ineffective. Nor did the Royal government bring relief, for the evils of war were added to the misfortune of the planters.

The most feasible remedies which lay within the power of the colonial legislatures—for the Navigation Acts were, of course, beyond their control—were thought to be these: The establishment of a limited number of ports, to which all tobacco intended for export must be brought for inspection; the prohibition of adulteration by mixing "trash" or poor leaves with the good; and a reduction in the amount of tobacco produced. These seem simple measures, but it was not until 1747 that a thoroughly successful law was passed by the Maryland Assembly. Through a period of great political disturbance the colony suffered from an unsound economic constitution, which contrasts very markedly with the prosperity of later years. How this change was brought about, and why it was not accomplished sooner, are questions which take us for answer to the period we have been considering. While all classes complained of the wretched state of the tobacco trade, there was by no means agreement as to the proper remedies. The three measures referred to above had met with opposition, in the seventeenth century, chiefly from the smaller planters. But now, after the restoration of the Proprietary government, it was rather the large planters, the salaried officers of the government, the clergy and the lawyers who withstood acts of the nature of those proposed by the Lower House. It was not, however, the regulation of tobacco as an article of export to which these classes objected, but another characteristic of the historic plant was here involved. Tobacco had long since become the customary measure of value and medium of exchange, consequently its selling price affected the whole monetary system of the colony. It was, in this aspect, a

depreciated and inflated currency which was constantly losing in value. Therefore, those whose incomes depended on specific amounts of tobacco fixed by law for salaries or fees naturally hesitated to accept legislation which proposed to lessen those salaries or fees, on the doubtful hypothesis of a rise in the value of tobacco. We first have to notice the strenuous and successful resistance of the lawyers to the suggestion of a close limitation and definition of their fees, and then to discuss the complications which arose from the determination of the Lower House to combine with their laws for improving the tobacco trade, a limitation or reduction in the salary of the clergy and in the fees of the officers of the government.

Let us consider first the position of the lawyers. From the very beginning, the feudal land law and the commercial system of Maryland had given a legal character to the provincial politics. There was thus opportunity for the work of able lawyers, and some time before the Revolution of 1689 these had obtained that leadership in political affairs which, in New England, was so much more in the hands of the clergy.[10] But as in most agricultural communities, and as in mediaeval England itself, this leadership was not maintained without opposition. The planters were prone to regard the lawyers' fees as oppressive, while as early as 1669 "privileged attorneys" were considered by the Assembly to be one of the "grand grievances" of the country.[11] The farmers seem to have desired an "unlearned parliament" in Maryland.

In 1715 an act had been passed "for rectifying the ill Practices of Attorneys of this Province, and ascertaining fees to the Attorney-General, Clerk of Indictments, Attorneys and practitioners of the law in the courts of this prov-

[10] It is stated, for instance, that the first occasion when a man really a lawyer by profession was returned as a member of the General Court, was in 1732. Washburn, Judicial History of Massachusetts, p. 208. In Maryland, the names of over seventy lawyers, who practiced prior to this time have been preserved.

[11] Maryland Archives, Assembly Proceedings, 1666-1676, p. 169.

ince, and for levying the same by way of execution." [12] Severe fines were laid upon attorneys who should issue criminal process against any one without the record of a presentment by the grand jury, or the special order of the Governor and Council, or of the Provincial or County Courts in the province. In some kinds of process the Attorney-General was forbidden to ask any fees, and for actions in general a list of rates was drawn up, which specified a maximum charge for the service rendered. Thus, for example, for conducting any action involving not more than 2000 lbs. of tobacco, or £10 sterling, an attorney should charge 100 lbs. of tobacco, and no more.

In the Provincial Court, the fee was to be 400 lbs., in the Chancery and Vice-Admiralty Courts, 600 lbs., in the Commissary's Court 400 lbs., in writs of error or appeals to the Governor and Council, 600 lbs.; while the Attorney-General conducting a suit in the Provincial Court should have 400 lbs. The penalty for charging greater sums was disqualification from any future practice. In 1721 and 1722, laws were passed which made punishable attorneys who by neglect of their duties caused loss to their clients.[13] In 1725, however, the Lower House of Assembly found the existing law insufficient, and passed an act to "restrain the ill practices of attorneys and to prevent their taking money fees." [14] This seems to have been more stringent than the law of 1715, and was so bitterly opposed by the lawyers that the Governor found it advisable to call another session of Assembly the next spring. Apparently the lawyers had taken advantage of technical mistakes in the act to throw everything into confusion. The law required the attorneys to take certain oaths, and they refused to plead any cause begun before the act, by which action there was danger, said the Governor, that their clients would be non-suited. Another burdensome technicality

[12] Act of 1715, Ch. 48.
[13] 1721, Ch. 14; 1722, Ch. 12.
[14] 1725, Ch. 14.

was the interpretation urged by the attorneys, that though a non-resident merchant be represented by his attorney, the merchant also must take the oath. The Governor, striving to be fair-minded, tells the Assembly that the option given to the planter of paying to his attorney 100 lbs. of tobacco or 10s. currency is not good policy, and may be hard on the lawyers. He advises that a day be set by which all lawyers must qualify, "that the country may know what lawyers will and who will not conform to the laws of the country." The principle of such a law meets with his approval.[15] The legislature then repealed the act of the previous fall, and passed a new law avoiding the earlier mistakes.[16] This was to continue in force three years. At the end of this period, in 1729, the law was renewed for three years longer.[17]

A general law such as that of 1725 punished without discrimination, and of course aroused resistance upon the part of the lawyers. Their first action, in which they attempted to nullify the law by refusing to plead certain causes, has already been mentioned. Later, in 1725-6, the Upper House heard "the petition of some of the late practitioners of the law in this Prov^ce," presented by Daniel Dulany, Thomas Bordley, Joshua George, and Michael Howard. This petition asserted that the charges contained in the preamble were unproven, at least as far as the petitioners were concerned, and prayed that they might not "be deprived of the rights of British subjects who by the laws of God and their country have an indubitable title to the enjoyment of their lives, liberty, properties and what is dearer, their reputation, until they are convict of some crime." They challenged any accusation against them and would at their own expense send for any "evidences" their accuser should name. They do not ask for higher fees nor for lessening the hardships contained in the said

[15] Address of the governor at opening of session, March 1720.
[16] 1725-6, March session, Ch. 22. [17] 1729, Ch. 22.

bill, though they consider the payments thereby authorized not sufficient. "It being matter of indifference to your petitioners in their present circumstances what fees are allowed or whether any or not," they invite the Upper House to consider whether the act itself is not destructive of their privileges as British subjects and whether it can pass "without a manifest infraction of the conditions annext by the royal charter to your legislative capacity, viz^{t}, that the Acts you pass be consonant to reason and be not repugnant or contrary but as near as conveniently may be agreeable to the Laws, Statutes, Customs and Rights of England."[18]

The bill of 1725-6 became law, however, and was in force for three years. When, in 1729, it was continued for another three years, the lawyers petitioned the Proprietor against it, employing as their representative John Sharpe of Lincoln's Inn, and the Proprietor gave his dissent on the ground that such a law "was not agreeable to any known law here."[19] To some other laws, also, the Proprietor dissented, which elicited from the Assembly first the resolution against the use of the Proprietary veto, to which reference will be made hereafter,[20] and second an address to the Governor drawn up the next year by Daniel Dulany and the Committee of Laws, to inquire the reason for the dissent to so many laws.[21] In reply to this inquiry the Governor transmitted his own instead of Baltimore's reasons, and also two papers from England, one "Reasons against the Act of Assembly for improving the staple of tobacco," and the other a long document entitled "The Case of those that Practice the Law in Mary-

[18] U. H. J., Vol. 32, p. 260-64.

[19] Calvert Papers, MSS. No. 52, pp. 7, 8, 9. Curiously, the L. H. J. for July 30, 1729, records that Daniel Dulany, from the Committee of Laws, delivered to Mr. Speaker a bill entitled an Act to Ascertain the Fees of Lawyers and other persons practicing the law and to prevent election frauds and abuses. The bill was afterward subject to the modification of the House.

[20] See below.

[21] L. H. J., May 23, 1730.

land and of those that trade to that province." The latter begins with a rehearsal of the previous acts, then urges the mistakes of the act of October, 1725. Especial emphasis is laid upon the fact that the attorneys' fees involve tobacco as the money medium; objection is brought, also, against the requirement that the lawyers must accept a fixed equivalent between money and tobacco that makes no allowance for the great variation in the value of the latter. It is urged, further, that non-residents will suffer by the loose wording of the act.

Appended to all this is a series of questions proposed to the Attorney-General of Great Britain, P. Yorke,[23] and to the Solicitor-General, C. Talbot, with reference to the validity of the act. The seventh of these was "Whether the Act of Assembly now under consideration be not dissonant to reason & repugnant to the laws of England and whether the enacting of such laws be not contrary to the provisions in the charter?" To which the Crown lawyers reply in the affirmative.

Nothing daunted by the authority thus adduced against them, the Assembly in 1730 passed a similar bill.[24] Again the lawyers petitioned through Sharpe, and again they secured the dissent of the Lord Proprietor.[25] After this, it seems, no more direct attacks were made against the lawyer class. Regulation of their fees, however, was included in some of the tobacco laws, to which attention will be drawn presently.

If this analysis be correct, one may regard these attacks upon the lawyers as the expression of popular jealousy, among an agricultural people, of a class of men, necessary for their usefulness, but disliked for their high charges

[23] Yorke's opinion is dated April 19, 1726. The frequent reference of legal questions to the Crown lawyers, of which the case cited here is an example, is worthy of mention. The Proprietors felt the need of some authority to support their own, and the Crown lawyers were usually found on the side of prerogative, whether that was Royal or Proprietary.

[24] 1730, Chap. 22. [25] Calvert Papers, MSS. No. 52, pp. 36-7.

for their services. Economically, the importance of tobacco as a means of payment is manifest; politically, we have a somewhat curious state of affairs, in which the very men that lead the Assembly in some of its most important measures are attacked by the Assembly with reference to their professional incomes.

From the difficulties of the lawyers we may turn to the troubles of religious officers. The salaries of clergymen of the Church of England in Maryland had been fixed in 1702, by an act[25] which completed the establishment begun ten years before. Upon every Anglican minister presented, induced or appointed, by the Governor was settled a salary to be raised by levying upon every "poll" forty pounds of tobacco. Thus became permanent the famous "40 per poll" tax, which brought such a dower of dispute to Maryland. Had the people of the province, like those of theocratic Massachusetts, been nearly agreed in their religious ideas, such a tax might have been paid with enthusiasm; or had the clergy won the respect of those who differed with them, it might have been borne with patience. As it was, there developed from many complex influences a violent resentment against the clergy of the Established Church. This church was incomplete without a bishop, but in the Establishment no provision for the Episcopate had been made, for Episcopal jurisdiction over the colonies was understood to be vested in the Bishop of London. That officer could not, however, be present in person, and his presence, or the presence of any bishop in America was not desired by many churchmen, who saw in such an innovation a curtailment of local autonomy. The Bishop of London therefore delegated his supervisory powers to officers called Commissaries, who were to be his representatives in the colonies. Here, however, arose a conflict with the powers of the Governor. Even in the Royal provinces, the Governors had been vested with some

[25] Act of 1702, Chap. 1.

parts of the power which in England belonged to the bishops; while in the Proprietary province of Maryland vastly more authority over church affairs, as well as over some matters now considered secular, was granted to the Proprietor by his charter, which bestowed upon him the "patronages and advowsons" of all churches that should be built, as well as all the rights ever possessed by any Bishop of Durham.[36]

One especially serious result of this division of authority was the impossibility of removing or even of exercising discipline over clergymen whose conduct was improper. Such conduct was unfortunately characteristic of several individuals among the clerical body and the opprobrium incurred by this part was extended to the whole. Over this question, from time to time, the Governors, the commissaries, the clergy and the Assembly were at odds. Some of the commissaries, though excellent and well meaning men, made many mistakes which aroused hostility among their own people, so that many of the Episcopal Church joined Roman Catholic and Protestant dissenters in attacks upon the Establishment.[37] Of these two kinds require notice.

In 1708, and again in 1725, attempts were made to subject the clergy to a regulating court composed of laymen. Upon the first occasion, which was during the Royal government of Maryland, this project was made unsuccessful by the veto of the Governor and the interposition of the

[36] The standard authority for the history of the Anglican Church in Maryland is Hawks, Contributions to the Ecclesiastical History of the United States, Vol. II. Hawks has every wish to be fair-minded, but, as he follows chiefly one kind of source—the letters from the Maryland clergy to the Bishop of London—his views are strongly affected thereby. The important facts concerning Maryland are found recounted in their due relation to the development of the other colonies in the scholarly work of Cross, The Anglican Episcopate and the American Colonies. The most important sources for Maryland are the Maryland Archives, the Calvert papers, and the Maryland MSS. in the library of the Bishop of London, at Fulham Palace.

[37] Hawks, Contributions, Vol. II, Chaps. VI and VII.

authority of the Bishop of London; upon the second, it was again the dissent of the Governor, this time in the interest of the Proprietor as well as in that of the Bishop of London, which prevented the bill from becoming a law. This second proposition for a lay court was the conception of Thomas Bordley, a lawyer, who was himself the son of a clergyman,[28] and had been alderman of the city of Annapolis,[29] and to whom the clergy ascribed a spirit of virulent hostility towards the establishment, which arose, in Hawks' opinion,[30] not from any deep conviction but from a desire to further his own political fortunes by removing or damaging the power of a body whose influence was upon the side of authority. Governor Charles Calvert, also, had a bad opinion of Bordley, who had stirred up strife with the Council and who was "a restless enemy to my government."[31] Capt. Hart, however, had thought him "an honest, ingenuous gentleman."[32] Bordley wrote a letter to the Secretary of the Society for the Propagation of the Gospel, in which he charged that Commissary Henderson was of a turbulent and haughty spirit, and wanted to be made bishop. He was conversant with Papists, said Bordley, and refused to take the oath to the present Royal house until compelled to do so.[33] More interesting, perhaps, is his connection with Dulany, with whose name his own was coupled, somewhat later, by Governor Ogle, as those of men capable of doing the Proprietor "either a great deal of good or harm."[34] He was Dulany's chief rival for leadership at the bar, and had not long before been "turned out" of the office of Attorney-General,[35] possibly to make room for Dulany. That

[28] Perry (ed.), Historical Collections relating to the American Colonial Church, Vol. IV (Maryland), p. 82. Here may be found most of the important documents.

[29] Calvert Papers, MS. Charter to Annapolis, 1708.

[30] Hawks, Contributions, Vol. II, pp. 176-177.

[31] Perry, Historical Collections, Vol. IV, 255-6.

[32] Ibid., p. 82. [33] Ibid., p. 253-4. [34] See below, p. 42.

[35] Calvert Papers, MS. No. 275.

Dulany's name is not prominent in the anti-clerical proceedings at this time will not be surprising, and it seems not unlikely that, even if allowance is made for the bias of the writers upon the side of the clergy, this attack of Bordley's was inspired to some degree by the desire to match Dulany's success in the English Statutes controversy, which the latter was agitating at this very time.

Shortly after the failure of this attempt, Bordley died. In 1728, however, the clergy were again accusing the Assembly of the intention to ruin them. The next plan of attack, as they regarded it, was to incorporate into a law "for improving the staple of tobacco"[86] a reduction in the salary of the clergy. The bill limited to 7000 the number of plants to be cultivated by one adult, except in case a man had no "taxables" under him, and worked for himself, in which circumstances he could plant more, while no minor should tend more than 3500. The vestry of every parish was to appoint two persons, who should keep, under oath, a list of the names and number of persons allowed to grow tobacco, and who should receive a small salary for their pains. Thus far the chief interest lies in the use of the parish as the local unit, but next follows the provision that for all debts for "public and county levies, parochial and other [regular] charges assessed and levied on the people, and lawyer's fees," the whole or a part sum may be paid at 10s. current money per cent [cwt.]; or three parts thereof "may be paid in tobacco, in specie, in full discharge and satisfaction of the whole," at the choice of the debtor. The effect of this would be, of course, to make the levy for the stipends of the clergy thirty pounds instead of forty pounds of tobacco, per poll, or else to force them to accept a fixed rate of exchange between

[86] Act of 1728, Chap. 2. The text of this act is found conveniently in Perry's Historical Collections, Vol. IV, pp. 270-280. L. H. J., October 14, 1728, records that D. Dulany, from the Committee of Laws, brings in the bill, which was read the first time and ordered to lie on the table.

currency and tobacco, which might prove very disadvantageous in the future.

Such was the law. Hawks, following the strictly ecclesiastical sources which he used, speaks of it as "purporting" to be one made for improving the staple of tobacco, but really intended as a blow at the Church.[37] It was, however, general in its terms; and it subjected to the same hardships—if that is a proper name—the public and county levies, etc. One is struck at once with the similarity to the attack on the lawyers, but of this analogy the reader may judge more fairly after considering more evidence.

To avert this threatened reduction of their stipends the clergy met in secret and sent the Rev. Jacob Henderson, Commissary of the Western Shore, to represent their cause in England. Having successfully evaded any legal process which might detain him in Maryland, he arrived in London, to find that Lord Baltimore was abroad. He therefore laid his case before the King, the Bishop of London and the Society for the Propagation of the Gospel. His arguments may be found at length in Dr. Hawks' volume upon the Maryland Church, and in the Calvert Papers.[38] They amounted to an emphatic statement of the difficulties under which the clergy already labored, and of the loss which this law would cause them. A document to which neither Hawks nor Mereness refers was a petition presented to Lord Baltimore (who had now returned) by the London merchants who traded with Maryland, the most important of whom was Samuel Hyde, a man whose name frequently appears in the commercial papers of the time and who was in close business relations

[37] Hawks, Contributions, Vol. II, p. 197.

[38] Hawks, Contributions, pp. 198-202. Calvert Papers (MS.), No. 52, pp. 1-4. Using Baltimore's absence as an argument for delay, his brother Cecilius addressed the Lords of the Committee and secured postponement of the hearing of Henderson's case. Then, upon Baltimore's arrival and petition that the case be referred to him, the Lords vote to suspend all proceedings in the case. Then follows Henderson's petition to Baltimore.

with Dulany. These merchants quoted the example of Virginia, and urged the necessity of a tobacco law to the economic safety of the province. But after hearing on both sides counsel learned in the law, and with a diplomatic regard for the interest in Maryland exhibited by the Bishop of London and the Board of Trade, the Proprietor dissented to the Act.[39] It was doubtful, he said, if the Act would answer its end. The variability in the value of tobacco will work damage to the property of individuals; it is uncertain whether its price will rise so that rates will be the same as before. It would be better if future payments should be made on the same foot as the old, and the quantity diminished. Were this done all things would rise in value and the province would be wealthier, for there would be more time for labor for other things. It is particularly hard on the clergy who have no other means of livelihood.[40]

Commissary Henderson pushed his advantage so far as to secure the veto of the other acts which touched the Church's possessions or prerogatives, and caused the sending of instructions to the Governor in Maryland, "Not to consent to any act the object of which was to diminish the revenues of the clergy."[41] After receiving from the Proprietor comfortable assurances of his favor towards the clergy, and from the Bishop of London a commission as commissary of the whole province, Henderson returned to Maryland, to find public opinion bitterer than ever in its denunciation of the clergy. So far did this go, that the person of the commissary was threatened with violence.[42] Meanwhile, in 1729, the Lower House tried to pass another act, to make more successful that of the year before; but disagreement between the Houses made the attempt a failure. The bill was first drawn up by Daniel Dulany, Jen-

[39] Calvert Papers, MS. No. 52, p. 5.
[40] Calvert Papers, MS. No. 52.
[41] Calvert Papers (MS.), p. 6-7, 11.
[42] Hawks, Contributions, pp. 204-205.

nings and Key.[43] Next year (1730), after considerable discussion and several conferences, in which Dulany's name often appears,[44] another act was framed which in spite of the Proprietor's instructions received the approval of the Governor.[45] This again was expressed in general terms, but included the provision that the clergy in lieu of one-fourth of their stipend receive other products than tobacco, e. g., wheat, barley, Indian corn and oats. The value of each of these commodities, in place of tobacco was fixed by the law. One bushel of barley, for example, was declared worth twenty-four pounds of tobacco. Against this bill, also, the clergy vehemently protested, urging that it deprived them of their property without their consent and forced them to become traffickers; and inasmuch as the best trade which they could make was in rum, an encouragement would be offered to the very evils already charged against some of the clergy.[46] At the same session of Assembly, on the other hand, both Houses joined in an address to the Proprietor in favor of the bill, and they were successful, for the Proprietor permitted the bill to become law. After the expiration of this act the next important regulation was that of the omnibus tobacco laws of 1747 and 1763, which will receive extended discussion hereafter. By these laws the clergy's income was definitely reduced to thirty pounds of tobacco. When this legislation expired, in 1770, the clergy claimed that the law of 1702 was thereby in force, and the dispute which thus arose was merged in that over the regulation of fees by proclamation, and soon the compromise then effected yielded to the greater settlement of the Revolution.

[43] L. H. J., 1729. Especially August 1.

[44] For example, he is second of six members of the Lower House chosen for a committee of conference. L. H. J., May 26, 1730.

[45] Act of 1730, Chap. 7.

[46] Calvert Papers, MS. No. 52, pp. 18-25. Hawks, Contributions, Vol. II, pp. 209-11. The clergy claimed the 40 per poll as their property, on the ground that the Act of Establishment of 1702 was passed under the *Royal* government and was perpetual.

Returning to the earlier period, we are told that, upon Henderson's petition against the second law, Daniel Dulany entered the lists as a controversial writer. Dr. Hawks, who made a careful examination of the records of the Bishop of London, at Fulham Palace, refers to a somewhat extended warfare of pamphlets in which Dulany and Henderson argued out the question. Dulany's name, however, does not appear in the documents collected by Bishop Perry and whether any of these pamphlets remain is doubtful.

In view of the prominence, in every history of Maryland, of the long drawn out controversy over officers' fees, it would be superfluous to repeat in any extended form the facts concerning it. It will suffice merely to state the point at issue, and the relation of the dispute to the tobacco question. For the first, then, from the standpoint of the Proprietor, it was claimed that he was given by his charter the right to constitute offices and appoint officers; and that this necessitated the right to fix fees for their support. As a matter of fact the fees were fixed by the Proprietor, through the Governor and Council, at the beginning of the colony, upon frequent occasions thereafter, and for considerable periods. But as the political life of the province matured, it was seen that the fees were really in the nature of a tax, levied upon the people of the province without their consent; and constitutional authority against them was found in the charter's provision that neither the Lord Proprietor nor his officers should issue ordinances that should "extend to oblige, bind, change or take away the Right or Interest of any person or persons, of or in Member, Life, Freehold, Goods or Chattels." It was therefore the old conflict of the theory of prerogative against the modern idea of constitutionalism; but in Maryland the Lower House had thus far been able only to pass laws for the limitation of officers' fees, and when these

expired, the proprietary officers fell back upon the right of the prerogative to fix these charges.[47]

By a compromise between the Houses, a limited reduction in the fees of some officers had been accomplished in 1719, during Governor Hart's rule.[48] This did not long remain satisfactory to the Lower House, which in 1724 made the astounding proposal to reduce fees by one-half.[49] The Upper House would not listen to this, but next year a bill became law,[50] which reduced the fees about a quarter of the rates then lawful. The Upper House passed the bill and then petitioned the Proprietor to veto it, a most peculiar method of procedure, one which reveals lack of backbone in the Council, and which served to arouse popular fault-finding with the veto power. When this act of 1725, coinciding as it did with the other important constitutional measures of that year, received the Proprietor's dissent, there was no law for the limitation of fees, because the act of 1719 expired. There was then for some years uncertainty, and attempts of the legislature to remove this by a law were unsuccessful.[51]

For this reason, we may turn to the tobacco trade. Like the salaries of the clergy, the fees of officers were payable in the tobacco currency. As tobacco was so low in value, the officers claimed that their fees should rather be increased than decreased; while the popular party held that if, as it was intended and tried, along with the reduction in fees, went a reduction in the amount of tobacco produced, the value of the fee would not seriously be diminished. Therefore no agreement could be made; the offi-

[47] McMahon, Historical View, pp. 157-158. Mereness, Part II, Chap. V, especially pp. 373-375.

[48] Act of 1719, Chap. 18.

[49] L. H. J., October 16, 1724.

[50] U. H. J., November 3, 1725. There is here some confusion of dates in Bacon's Laws. No act for the fall session of 1725 appears therein, and to an Act for the Limitation of Officers' Fees, of 1725 (March), Chap. 23, there is no record of dissent.

[51] For example, bills failed in 1728 and 1729.

cers met with insolence from the citizens,[82] who, on the other hand, did not wish to pass a law for improving the staple without reducing the fees which they considered excessive.

In view of the facts recited, this legislation against lawyers, clergy and officers seems, then, to have had a common ground. It exhibits the jealousy of a debt-ridden agricultural population toward salaried creditor classes. If this interpretation is correct, it modifies the opinion of Dr. Hawks, and the ecclesiastical writers, who, including the clergy of the time, regarded the church as singled out for attack; which, as has been shown, was not the case. Let us not be hasty, however, in forming any conclusion, but observe the progress of events in economic history during the important years that follow.

[82] See Governor Calvert's letter, quoted below, p. 36. In 1728 the Assembly was called on take notice of a seditious paper which suggested the intimidation of the legislature by force. (L. H. J., October 26, 1728.) As this reminds one of the seventeenth century history of Maryland, so the actual cutting of tobacco in 1732 recalls the "Plant Cutters' Riot" in Virginia.

CHAPTER II

Commerce and Currency

In the preceding chapter the bills of the years 1728-1730, with reference to lawyers, clergy and officers, have received sufficient notice. During the same years, the Assembly took up other important measures. The year 1728 was one of the most critical in the decade of controversy over the English Statutes, and one of Dulany's laws to extend the English Statutes was vetoed by the Proprietor, while in 1730 another met the same fate. In the former year, also, appeared from the Annapolis press Dulany's important pamphlet, "The Right of the Inhabitants of Maryland to the Benefit of the English Laws," full of emphasis upon the rights of the colonists as Englishmen. In 1730 the Proprietor's dissent to several laws was announced to the Assembly. Meanwhile, however, the Lower House had adopted a very radical resolution, that "This House having taken into consideration that the Right Honourable the Lord Proprietary hath frequently dissented to the Laws past in this Province by the Legislature thereof, which we conceived to be an Aggrievance to his Majesty's subjects therein and not warranted by the Charter, and as it is an Affair of the greatest importance to the people, to be at a certainty about their Laws, we desire your Honours to join with this House in applying to his Lordship, or in taking such other steps as may be necessary to settle a matter of so great Consequence."[1]

Nothing came, at this time, of the protest against the Proprietary's veto, which, for some years, thereafter was used very freely. Ultimately, the same violent opposition

[1] L. H. J., August 5, 1729. For the opposition to the Proprietary veto, during the earlier period of colonial history, both in Maryland and in South Carolina, see Greene, The Provincial Governor. Harvard Historical Studies, Vol. VII, p. 14.

to interference with the law which is here manifested prevailed over the prerogative, and the veto was disused. This was accomplished by filling the Upper House with stronger men, disposed to the Proprietary interest, who would hold in check legislation of a radical character. When he lacked this support, the Proprietor found that he had to yield.

A further threatening move of the Lower House was the submitting by that body of another proposal to establish by public support an agent in England,[3] who should represent to the British Government the interests of the colony.[3] To this the Proprietor was bitterly opposed, and stated upon occasion that no one could so well represent the province as himself; which from his standpoint was probably true. We may doubt that the desire of the Lower House for such an agent was as real then as it later became; the idea was probably brought forward as one more means of annoying the Governor and Proprietor. At this session the Upper House rejected the proposition, and another attempt made two years later was no more successful.[4]

Very important, from an economic standpoint, was another piece of legislation proposed, but not carried through, in the session of 1729.[5] This was a bill for the emission of a paper currency. The fever for paper money which had so long been rampant in New England had developed in Pennsylvania during the hard times of 1722-3.[6] Now it reached Maryland, likewise disturbed by

[3] L. H. J., 1729, July 23, August 1. The proposition (at this point) was first made in 1725.

[3] On colonial agents in general, see Tanner, Colonial Agencies in England during the Eighteenth Century, Political Science Quarterly, Vol. XVI, pp. 24-49; and for Maryland, see Mereness, pp. 465-472.

[4] L. H. J., 1731, August 26.

[5] See Governor Calvert's letter below, p. 34; also L. H. J., July 23 to August 5, 1729.

[6] Shepherd, History of Proprietary Government in Pennsylvania. [Columbia University] Studies in History, Economics and Public Law, Vol. VI, Chap. IX, especially pp. 405-414.

economic depression. Of all times to float a paper currency this would seem to us to have been the worst. The plan of remedying one bad kind of money by the addition of another seems the height of folly. But the experience of the other colonies, which were pleased with the results, and the low state of trade in Maryland, which made any change worth trying, combined to make this a matter of the greatest public interest. Agitation of the project continued four years, however, before the issue of bills was authorized by law.

For the state of the public mind during this period three very interesting sources of information are fortunately accessible. One of these, the Maryland Gazette, expresses the feeling of the general public; another shows the attitude of the Governor, while the third is a political poem upon the situation. It is well worth while to suspend our narrative to examine the contents of these valuable sources.

Several numbers of the Maryland Gazette,[7] luckily preserved from destruction, inform us of the news which circulated in the province. To begin with, a long series of letters deals with the relations between the tobacco merchants in London and those of Maryland. The former were joined into an association, with rules and regulations, and made an agreement to sell none of their tobacco for less than a certain price;[8] but this attempt was ineffectual and tobacco had been sold below that price. It was charged by Nicholas Ridgely and others that the individual who broke the agreement was Samuel Hyde, the merchant who had the largest consignments from Maryland of any concerned in the trade. Over this accusation the letter writers take sides, and often in forcible English present their arguments and counter arguments. Toward the end

[7] The numbers in the possession of the Maryland Historical Society begin December 3-10, 1728, and, with gaps, run to July 15-22, 1729.

[8] At first 2½d. a pound, then 2¾d. a pound.

of the summer of 1728, a letter* signed by Charles Calvert and eighty-three other gentlemen was sent by Daniel Dulany, at their command, to Micaja Perry, chairman of the London Merchants. This paper expressed their approval of the combination of the merchants, and threatened any one who broke the agreement with loss of the patronage of the Maryland planters. The Marylanders also declared their serious disapproval of the practice of sending their tobacco to Holland, and requested the London combination "not to send it to that market, but to sell it in London, or keep it by you, 'till you are obliged to export it to save the Duty." They approved also of a charge of 3d. per hogshead of tobacco made by the merchants "for sundry good ends." The Londoners appointed a committee of twelve to frame an answer, and this was published in the Gazette of April 8-15, 1729. After informing the planters of the failure to keep up the price, they confirm the disapproval expressed by the former as to shipping tobacco to Holland. After sundry remarks their reply proceeds with some interesting particulars as to the trade. London, they say, had formerly a much greater share of the Maryland and Virginia trade than now, and so could more easily control the market. Now, nearly one-half of all the tobacco that comes to Great Britain goes to the out ports, especially Glasgow. They accuse the traders of the latter place of having some unknown advantages in the customs. Moreover, "the quantity imported into Great Britain, of late years, has really been more than all Europe doth consume within the year, which leaving every year a stock of old tobacco upon hand, has clogged the Markets in Europe, and that is another and indeed a grand cause of the lowness of the price." Then follows their advice to the planters, first as to the quantity, which may be reduced: 1. By planting less every year. 2. By destroy-

* As given in the Gazette for March 18-25, 1729, the date of this letter was September 3, but as quoted in the letter of the Merchants, it was August 14.

ing every year all the trash and mean tobacco. 3. By forbearing to plant every fourth or fifth year. The first is preferable, and the production of other commodities should be encouraged; the second is harder, especially for the poor, and the debtors, and to accomplish it, all future debts should be contracted in money, not in tobacco; it is now time to leave off the old way of barter. The third will be useless unless Virginia joins with Maryland. As to the quality, that will be improved by the former measures. There should, moreover, be only one sort of tobacco in a hogshead. The merchants complain of the lowness of freight; their ships cannot be supported under eight pounds per ton, nor should they be required to delay so long for loading. Tobacco should not be shipped the year round, but only between February 1 and July 31. They show that the Virginians are far more prompt in getting their crops ready. Objection is made to the practice of rolling the tobacco, which occasions harm and loss. They close with the suggestion that the planters do not clear bills upon them before their tobacco is sold; the freight and the customs are hard enough to bear.[10]

Another interesting letter includes the opinion of Thomas Reese, "an eminent lawyer," that such an agreement as that of the merchants, not to sell goods but at such or such prices, if it does not fall within the prohibition of the Statutes of 56 Edward VI, Chap. 14, or 13 Elizabeth, Chap. 25, is an offense at the Common Law.

In view of the economic tendencies in the modern organization of the business world, this attempted combination for the regulation of trade and prices, upon a scale which involved transoceanic commerce, and the failure to accomplish the result aimed at are phenomena worthy of closer investigation by the economic historian. We should know

[10] This letter is dated London, November 7, 1728, and is signed by Micaja Perry and thirty-six others, among whom are Samuel and John Hyde. It is to be found in the Gazette for April 8-15, 1729.

just how these merchants were organized and what their political influence in England amounted to.[11] More light should be thrown, also, upon the relations of planter and merchant. In Maryland, moreover, a query suggests itself, as to what was the exact nature of the business relations of these merchants, of John Hyde, for example, to the Proprietor.

Besides this information that bears directly upon the tobacco question, the Gazette presents several items of general political interest. From Boston came a letter of Mr. Dummer, giving account of a memorial read before the Board of Trade. In May appears the speech of his Excellency Governor Wm. Burnett to the Assembly of Massachusetts, urging "his Majesty's 23rd instruction" for fixing a salary, now accomplished in every colony in his Majesty's dominions except in New England. That the 23rd instruction was not as efficacious, and the example of the rest of his Majesty's dominion not as inspiring as was hoped is indicated by the news of the dissolution of this Assembly hardly a month later. New Hampshire, however, seems more tractable, and settles £200 a year on Governor Burnett during the term of his government. From Pennsylvania is reported the speech of Patrick Gordon, the Lieutenant-Governor, to the representatives of the freemen of that province. New York's Governor is quoted as recommending the appointment of an agent. From a still greater distance comes the news that Jamaica has established a perpetual revenue.

Of more direct interest, in view of the agitation in Maryland, is another communication from Philadelphia.

[11] The pamphlet entitled, The Case of the Planters of Tobacco in Virginia . . . to which is added a Vindication of the Said Representation, was printed in London in 1733, thus not long after the Virginia Inspection Law of 1730. The "Vindication" quotes at length a letter dated London, 15 December, 1729, from an eminent merchant in London to a correspondent in Maryland, which goes into much detail to show how unavoidable are the charges the merchants make, all of which the author of the "Vindication" declares, is a farce, and shows how people are imposed upon.

In the columns of the Gazette [13] is republished the youthful production of Benjamin Franklin, entitled "A Modest Inquiry into the Nature and Necessity of a Paper Currency," in which Franklin had "set forth its advantages so convincingly that he was given [in Pennsylvania] the lucrative job of printing the money." [14] It was hardly to be expected that Maryland should not follow the example of the larger and wealthier colonies, even if her economic condition had been far sounder than it really was. Franklin's paper, effective in Pennsylvania, doubtless was no less so in Maryland.

From the Gazette we may turn to the second document referred to above, which is a long letter from the Governor, Benedict Leonard, to the Proprietor, Charles Calvert, in which he unburdens his soul of the weighty matters of state which trouble him, and touches upon several of the topics of which mention has just been made.[15] He has first to explain the failure of the bill for paper currency. He had insisted that it should not "take place" until his brother's pleasure should be known. Very naturally then "a set of people in the Lower House" who "were disputing or rather denying" the Proprietor's right of dissent, would not accept the amendment inspired by the Governor's caution. He had urged this caution because of the importance of the bill. Then follows this description of the financial situation:

"Money, or somewhat to answer its Current Effects in trade, is Certainly much wanted here, wee may Barter Between one Another our Staple Tobacco, but to Carry on and Inlarge our trade Abroad, & to Invite Artificiers Shipwrights &c to settle amongst us, another species of Currency in payments, seems very desireable. New York, Pennsylvania &c are vastly improved in foreign Trade, as well as home Manufactures, by a Paper Currency it is that, in

[13] Gazette for July 15-22, 1729.
[14] Shepherd, Proprietary Government in Pennsylvania, p. 418, note.
[15] The letter is printed in the Calvert Papers, No. 2, Fund Publications of the Maryland Historical Society, No. 34, pp. 68-81. It bears date Annapolis, October 26, 1729.

lieu of Specifick Coin, which seems, to give life, Expedition, and Ease to trade and Commerce. This has drawn them into Communitys or Towns; they are daily growing more and more populous, and are Supposed to Increase as proportionably in Credit and riches. In Virginia and Maryland the Case is Much otherwise; Tobacco, is our Staple, is our All, and Indeed leaves no room for anything Else. It requires the Attendance of all our hands, and exacts their utmost labour, the whole year round; it requires us to Abhor Communitys or Townships, since a Planter cannot Carry on his Affairs, without Considerable Elbow room within his Plantation When All is done, and our Tobacco sent home, it is perchance the most uncertain Commodity that Comes to Markett; and the management of it there is of such a nature and method, that it seems to be of all other, most lyable and Subject to frauds, in prejudice to the poor Planters. Tobacco Merchants, who deal in Consignments, get great Estates, run no risque and Labour only with the pen; the Planter can scarce get a living, Runs all the risques attendant upon trade, both as to his negroes and must work in variety of Labour. I write not this in malicious Envy, to the Merch^ts, nor do I wish them less success in business, but I heartily wish the Planters Lay was better When our Tobacco then is Sold at home, whatever is the product of it returns not to us in Money, But is either converted into Apparell, Tools or other Conveniencies of life, or Else remains there, as it were Dead to us; for where the Staple of a Countrey, upon foreign Sale, yields no return of Money, to Circulate in such a Country, the want of such Circulation must leave it almost Inanimate; it is like a Dead Palsie on the publick, Since it can never Exert its members or faculties in the pursuit of trade and Commerce An increasing Country and growing people, as this is, and a Staple, at best Uncertaine, but of late visibly declining in Value, as Tobacco is, wishes the people here to look about, and Enlarge their foundation in trade, to the which money or some Currency, which may answer the same uses, is necessary, and the Expedient to such End is a Paper Currency as proposed in the Act."

Such was Governor Calvert's opinion on the paper money question. His caution had still another basis. "I dare not Venture to pass any such Law here without Even the Consent of the Crown, for an Instruction of the Late King Dated the 31st of Aug: 1721, It seems to require that no Law of an unusual or Extraordinary nature should be passed here until her Majesties pleasure was

therein known, whereunto reference may easily be had in Council or Board of Trade Office. This was Indeed the main reason for my insisting upon the first amendmt . . ."

The quotation just made reveals to us one reason for the general conception that Maryland was a quiet, loyal province. The Lords Baltimore had had experience enough to wish to avoid if possible examination by the Royal authority; hence such an instruction as this, though entirely contrary to the spirit of the Proprietary charter, was zealously to be obeyed. Even in its relations with the home government, the Proprietary power was a very different one from that of the preceding century.

From the paper money question Governor Calvert turns to others. He advises the Proprietor to accept and then to continue the existing composition of his fines and quit-rents for a fixed tax. He then goes into a long discussion of the financial support of government, which need not be repeated here, except two or three paragraphs which point out his ideas of government.

Expressing his regret that the people feel that the support of government "is in their own free choice, to the which you cannot oblige them," he proceeds:

"This Superiority, as I may term it, of the people over the Government, seems Unaturall, and is I am sure Repugnant to the very ends for which Government was Instituted, viz., an Authoritative Influence for the good order of Society.

I am in hopes that the present Contest on this Subject with relation to New England, will so far be Determined next Session of Parliament, as to Vindicate the rights of Government in Generall, and awe such as have not yet, though they may be ready to play the New England Game. It would be Extreamly happy for your Ease and Quiet, should the Parliament in some Vote or Law include all the Governments in the Plantations so far as to provide an Establishmt Certain for the Support of the several Governments."

The next topic is that of officers' fees. Since the Proprietor's dissent to the law of 1725, there has been trouble in collecting fees, and "Every insolent fellow thinks himself free to refuse paym^{t}; and Brow beat, as it were, the

Officers." Calvert therefore recommends certain Queries to be advised on:

1. Whether the Proprietor is empowered by the Charter to Establish fees, without a law,
2. How such a Power may be exercised so as to be effectual
3. If such a power is not warranted by the Charter, how can the Officers recover their fees, in default of the action of the Assembly.
4. "Whether, whilst there is no law here for any other Certain Establishmt, the Officers may not recover fees at law according as they are settled in the Courts of England, By the Very Rule laid down by these people, that the Laws of England are to take place when our own are silent. . . ."

After this last very neat counterstroke upon Dulany and his party, the Governor turns to matters of less import, which we may neglect, and pass from prose to the poetry that was inspired by the circumstances of this period.

At some time during the year 1730, and apparently while the legislature was still in session, there was printed by William Parks, of Annapolis, a poem of considerable length, entitled "Sotweed Redivivus: Or the Planters Looking-Glass. In Burlesque View. Calculated for the Meridian of Maryland." By E. C. *Gent.* In 1900, this, with other poems, was republished, as Fund Publication No. 36, by the Maryland Historical Society, under the editorship of Dr. Steiner; and to this volume the reader is referred for the full text of the poem and a discussion of the question of authorship. What concerns us here is the purpose of the poem, which is not made very clear in the introductory notes. When, however, it is read in the light of the events narrated above, it proves to be a somewhat humorous argument for the economic improvement of Maryland by the cessation or limitation of tobacco planting, and the substitution of general industry and commerce. Thus in the preface the poet declares:

> "Its industry, and not a nauseous weed,
> Must cloath the Naked, and the Hungry feed.

Correct these Errors length of time have made,
Since the first Scheme of Government was laid
In Maryland, for propagating Trade
Will never flourish, till we learn to sound
Great Britain's channel and in cash abound."

In the body of the poem the author tells us of a visit to Annapolis:

"When the High Court of Delegates
Assembled were, with Resolution,
To fortify their Constitution,
By Laws, that should, to say no more
The common weal to Health restore.
.
Reduc'd to Penury indeed,
By feeding on this *Indian* Weed.
For Remedy, both Houses joyn
To settle here a *Current Coin*
Without Exception, such as may
Our *Public Dues* and *Clergy pay.*

There is opposition, apparently, to paper money and a planter whom the author meets declares his wish for

"The levelling of a standing Coin
It matters not what Sort of Mine
It issues from, since ev'ry thing
Is worth no more than it will bring."

And proposes a currency of copper, tin or brass, to bear the King's image and pass throughout America, of equal worth everywhere. This financial discourse is interrupted by a sudden noise, and when Sotweed asks for an explanation, "one in drink" tells him:

"The Reason's this, if you must know it,
The House divided is, old *Poet,*
In voting for the *Money Bill;*
Which, tho' compos'd with wondrous Skill
Will never pass, I dare be bold
A Pipe of wine on it to hold."

At night he held discourse with another planter, who in the second canto of the poem describes the careless and excessive production of tobacco and the dire results. The pressure from the merchants is mentioned, and the burden of the "petty charges," subsidies both old and new

> "As factors tell us, run so high
> They swallow up an Industry."

The low character of the staple seriously harms commerce.

The situation, moreover, will grow worse and worse if the present course is followed. The planter then suggests first "a jubilee once in five years;" then the limitation of the number of pounds to plant. Merchants buying the staple should be obliged to pay at once one-sixth of the value of the tobacco in currency or in bills, and the rest in goods. Next he urges:

> "We ought conveniently to dwell
> In *Towns* and *Cities,* buy and sell
> Our Merchandize at publick Scales.
> And as it often rains and hails,
> *Warehouses* should in common be
> Erected; where, for a small Fee,
> Our *Staple* would be convey'd thither
> Securely screened from stormy weather.

Reference then follows to the land rents of the Marylanders, and we find these outspoken lines:

> "I must confess, 'tis just and true
> That Cæsar should be paid his Due:
> But one Man to monopolize
> More Land, than yet he occupies,
> And Foreigners the *Quit-Rents* pay,
> In *Sterling Coin,* is not fair play:
> A grievance ought to be suppress'd,
> By Ways and Means, Cæsar knows best."

At length the planter closes his evening discourse by informing his friend that:

"The only way I know to heal
The ling'ring State of Common weal
Is to ordain all Taxes be,
As well the *Priest,* as *Lawyer's* fee,
Hereafter paid in *Currency*
Or with the Produce of our Grounds,
In *stinkebees* too much abounds;
Else, 'tis in vain for us to hope
With our misfortunes long to cope.

Next morning the discussion is continued. The planter refers to the Press (meaning the Gazette) swelling with schemes

"To make us thrive at home the better
As P. P. tells us in his letter,"[16]

and urges the drainage of the country, planting of grain, hemp, flax, rice, and cotton.

"Next, may their Industry be seen
In *Pastures* fat, and Meadows green;
Where *Sheep* and *Cattle* manure Ground,
In mighty numbers shou'd abound.
The Hides will for their grazing pay,
And *wool* misfortunes keep in play.

.

Merchants then of ev'ry Sort
And mariners will here resort,
When they hear *Money* circulates,
Within our Towns and City Gates."

Again, the Marylanders should export their produce in their own ships, for building which abundant materials are at hand.

"Nothing is wanting to compleat
It for the Sea, a trading Fleet
But Industry and Resolution."

.

[16] "P. P." writes one of the letters in the Gazette to which reference has been made above.

"Can ne'er think to grow Rich and Great
But by an Independent State;
Or hope to thrive, unless we try,
With coin as Wings abroad to fly.
We then about the World might roam;
See how our *Staple* sells at Home;
Barbadoes and *Jamaica* drain;
Bring hither from the mines of Spain,
Moidores, Pistoles, and Cobbs, full Weight;
The very best of *Spanish Plate.*"

And if these coins tended to leave Maryland an act might be passed to limit their circulation.

Sotweed's comment in this poetical discourse on trade is that *Industry* is the essential thing, and he advises the planter:

"Begin, be bold, old *Horace* cries,
And bravely venture to be wise.
In vain he on the Brook Side stands,
With Shoes and Stockings in his Hands;
Waiting 'till all the Stream be past and gone,
That runs (alas!), and ever will run on."[17]

Whether these evidences of what was going on in Maryland "improve the heart," to use Chalmers' phrase, or not, they at least "inform the understanding" as to the economic situation and the lively excitement among all parties concerning it. The chief result of the labors of 1730 was, as has been indicated, the passage of the tobacco amendment law which reduced the clergy's income. After this Governor Benedict Leonard Calvert ruled but a single year, when he was succeeded by Samuel Ogle. In Calvert's last two sessions of Assembly not much of importance was accomplished, except the passage of a bill to emit £36,000 of paper money, which, in accordance with the Governor's very definite ideas, expressed in his letter, contained a provision that it should not become law until

[17] The citations are all from Early Maryland Poetry: Maryland Historical Society Fund Publication No. 36.

the Proprietor had signified his assent. As this was never given, the act never became effective.[18]

Ogle was a man of conciliatory temperament, but he found the country "as hot as possible about the English Statutes and the Judges Oath."[19] He began his career with civil conduct to everyone, disregarding his predecessor's advice against some of his subjects. In this he feels justified and tells the Proprietor "that nothing in the world has hurt your interest more than your Governours declaring open enmity to such men as Bodeley and Delany who were capable of doing you either a great deal of good or harm and trusting your affairs to such as could not possibly do much one way or other."[20] At his first Assembly, the ten years of dispute over the English Statutes was closed by a judicious compromise, in which a form of oath drawn up by Dulany was accepted, and other important acts were passed. To only one did the Proprietor dissent.

The example of conciliation set by Ogle was followed by the Proprietary when he visited the province and for a while took the government into his own hands, in 1732-3. The chief interest in America was the settlement of the boundary line between Maryland and Pennsylvania. Just about the time of his voyage, however, the limiting and controlling power of the Crown found expression in a way that illustrates the machinery of the colonial system of the time. The House of Commons addressed the Crown, and the Crown directed the Lords of the Committee on Trade and Plantations to prepare a report on the state of the plantations, especially with reference to

[18] Bacon's Laws of Maryland, Act of 1731, Chap. 21.
In the same session, a bill proposing to levy 30,000 lbs. of tobacco additional upon the inhabitants of St. Paul's Parish to finish St. Paul's Church, shows that the hostility to the clergy was not so great as to make the Assembly unwilling to assist the Establishment.
[19] II Calvert Papers (Printed), p. 82.
[20] Ibid., p. 85.

the trade laws. The Lords of the Committee therefore wrote to Governor Ogle for information concerning Maryland.[31] Only a month before, Governor Ogle received instructions from the Crown,[32] forbidding the passage of any law laying greater duties on English merchants than are laid on the native colonists. These interrogations of the central government elicited a curious reply. One cannot but suspect that the doleful tone of this report was intended to reduce to a minimum the interest of the government at home in Maryland affairs. Besides satisfying this dangerous inquisitiveness, the Proprietor had to pacify the discontented Marylanders. His personal presence in the colony was a great step in this direction. He treated the clergy with cordiality and labored to establish a better feeling between them and the Assembly. For the first time he did not veto the Act for the Justices' Oaths, but accepted Governor Ogle's compromise. The Assembly which met in 1733, perhaps awed by the presence of the head of the government, with his power to reward or punish, was much less troublesome than its predecessors. Only thirteen acts were passed, of which, besides a new Militia Act,[33] the sole law of great importance was the act which established a paper currency.[34]

Of the discussion of this plan we have made mention above. The balance of trade was against the colonies in nearly every case; in Maryland this was the more true, because of the money dues of one sort or another paid to the Proprietor in England, which drained the metals from the colony. The Assembly tried to stop this, or to counteract it, by putting a premium on gold and silver imported into the colony.[35] But with the experience of Pennsyl-

[31] Calvert Papers (MS.), No. 52, pp. 46-47.
[32] Ibid., pp. 45-6.
[33] 1733, Chap. 7.
[34] 1733, Chap. 6. "An Act for Emitting and making Current Ninety Thousand Pounds Current Money of Maryland, in Bills of Credit."
[35] The value of foreign silver in terms of pounds sterling was fixed by Act of 1708, Chap. 4. The law for encouraging the importation of gold and silver is the Act of 1729, Chap. 15.

vania and the other colonies to look to, this did not satisfy the Marylanders, whose tobacco had fallen so much in value as seriously to affect its use as a money medium. In the preparation of the early bills, which failed to receive the Governor's or the Proprietor's approval needful to make them effective, Dulany had been of active service. Now, in 1733, with Dulany again playing a prominent part,[36] it was at last enacted[37] that bills of credit were to be struck to the value of £90,000 American currency (according to the English statute of 6 Anne, for ascertaining the rates of foreign coins in the plantations) to circulate 31 years for the 29th of September, 1733.

Counterfeiters were to suffer death without benefit of clergy. These bills were to be current in all future contracts, and a tender thereof, in discharge of any money debt was to be good in law. All fees and levies, except the clergy's dues, and tobacco for building and repairing churches; all securities and similar allowances; all fines, etc., given in tobacco by any laws of the province, were made payable in bills of credit, at 10s. per hundred pounds.[38] For issuing the bills, there were provided three Commissioners and a Clerk, with their office at Annapolis.

The provision for putting the bills into circulation is very curious, and reveals a radical cure for the tobacco trade's diseased state: (1) Through the County Clerks[39] the Commissioners were to issue to each master of a family 30 shillings in bills for each "taxable." In return, every such master was to burn, in the presence of tobacco burners appointed by this act, 150 pounds of tobacco for each taxable to them belonging, in the year 1734, and the like quantity in the year 1735, on penalty of 20s. currency for every 150 pounds of tobacco omitted; the result obviously aimed at by this remarkable provision was the destruction of trashy tobacco. (2) £3000 of the bills were appropriated for a residence for the Governor, from which much difficulty later arose. (3) £500 were given to every county for jails, etc. (4) £500 were for repairing the public buildings in Annapolis. (5) The remaining bills were to be lent out on

[36] See U. H. J., April 2, 1733.
[37] Act of 1733, Chap. 6.
[38] Certain minor limitations upon this general rule will be found in Bacon's abstract of the law.
[39] The County Clerks were to receive £10 as commission, and the tobacco burners 6d. for every 150 pounds burned.

interest by the trustees at 4 per cent, either upon mortgage or personal security, duly regulated by the act. These clauses therefore gave the Commissioners some of the characteristics of a bank. Lastly, for the repayment of the bills of credit a sinking fund was to be established, for which a duty of 1s. 3d. sterling per hogshead was laid upon all tobacco exported, to be paid by the masters of ships, in bills of exchange. These bills of exchange were immediately to be remitted to London, to three trustees appointed and controlled by his Lordship, who should invest the money thus received in the purchase of bank stock for the use of the province, lay out the interest received in the purchase of similar securities, and report annually to the Assembly. The bills were to be retired at two separate times; first, between September 29, 1748, and March 29, 1749. All bills brought into the office for payment were to be cancelled and new bills, to the value of two-thirds thereof, were to be delivered to the owners of the bills; for the other third the owners should receive bills of exchange drawn by the Commissioners upon the London trustees, payable at forty days' sight to the owners, or their order, to be charged to the account of the province of Maryland, and to be paid by the London trustees out of money derived from the sale of the necessary quantity of the bank stock; second, all the remaining bills were to be retired in a similar manner, when the full period of 31 years had expired.

Thus was Maryland put in closer touch with the great financial machinery of London. Such contact, it must be remembered, was not new, for in private dealings London merchants had for years acted as bankers and brokers for the planters of the colonies. To turn to the effects of the law, hardly a year had passed when we find an act to relieve some individuals from the charges of prosecutions for not burning the tobacco as required by the act of 1733,[29] which suggests that as a remedy for the glut in tobacco it was not a complete success. On the financial side we find, as we might expect, that the bills depreciated in value, and thus embarrassed the money system still further. In this connection may be quoted the brief comment of Dr. Douglass, in his "Discourse concerning the Currencies of the British Plantations in America":

[29] Act of 1733, Chap. 4.

"In Maryland Silver continued at Proclamation Value until A. 1734, with a considerable concomitant Truck Trade as a Medium, viz. Tobacco; they then emitted 90,000 in Bills, which tho' payable to the Possessors in Sterling well secured, the Sum being too large, and the periods too long, viz. three partial Payments of 15 years Periods each; *Exchange immediately rose from 33 to 100 per cent.*" [81]

It will be noticed that Douglass gives the wrong date for the law and is mistaken as to the periods of redemption. As to the rate of exchange, he was probably better informed. From Maryland sources we learn that this depreciation, which at times reduced the bills to half their par value, was chiefly during the first period of fifteen years and that after the Inspection Law of 1747, and the scrupulous fulfilment of the law by sinking one-third of the bills, the exchange value of the remainder rose rapidly. In 1764, when the final balancing of accounts took place, it was found that Maryland had a considerable sum to her credit as profit from the experiment, a circumstance which contrasts very favorably with the history of the paper currency in other colonies. This may justly be regarded, then, as one of the influences which improved the economic condition of Maryland. But it could not have worked so favorably but for the limitation of the amount issued, the excellent arrangements for retiring the notes, the subsequent regulation of tobacco, and the development of other sorts of agriculture, which will be discussed at length in the succeeding chapters in connection with the endeavors of perhaps the most prominent citizens of that day to promote all these desirable objects.

[81] Douglass, A Discourse, etc., reprinted in American Economic Association, Economic Studies, Vol. II, p. 315. This reprint is edited by Professor Bullock. The Discourse was first published in London in 1739, and in Boston in 1740.

CHAPTER III

Public Services of Daniel Dulany the Elder

One result of the good feeling which, during Lord Baltimore's stay in Maryland in 1733, marked a cessation of political strife, was the acceptance by the people, without complaint, of a proclamation[1] which fixed the rates of officers' fees. For some time there had been no law on this subject, and some confusion had arisen. Before many years, the Lower House awoke to its responsibilities, and entered upon another violent assault against the Proprietor. For the postponement of this conflict at least one reason is to be found in the fact that Lord Baltimore decided to accept his Governor's advice, and break the opposition by removing its leaders. Of these leaders the nature of the documents at our disposal makes it hard to give a satisfactory account. One of them, however, has been mentioned frequently in the preceding chapters, where we found Daniel Dulany the prime mover in the English Statutes controversy, and prominent in most of the important legislative proceedings of the period. Were this his only claim upon our attention, it might be interesting to ask who he was and what he did; but yet greater necessity for such inquiry arises from two other considerations: first, the important part played by Dulany, in the latter part of his life, with reference to the economic difficulties set forth above; and, secondly, the importance, after the visit of the Proprietor, of Dulany's position in the official system of the colony. For not only did this make him one of the most powerful men in the province, but also it transmitted to his sons the possibility of a similar power, and in time made of them and their relatives really an

[1] C. R., April 14, 1733.

official family, which, in the years preceding the Revolution, kept control of the administration of Maryland, rivalling the Governor in political influence.

It will be well to consider these topics in inverse order; we may, then, postpone further consideration of the economic development and devote a few pages to Dulany's earlier career, and to his office holding after 1733.

Of Daniel Dulany's origin and coming to Maryland no contemporary evidence remains. According to a long-established family tradition, he was born in Queen's county, Ireland. His name he originally spelt Delany, and he was cousin to Dr. Patrick Delany, the friend of Dean Swift, some of whose letters to his American relative are in the possession of the latter's descendants. A family quarrel "made him quit the University of Dublin while yet a youth and leave his country for Maryland, where he arrived almost penniless and would have been indentured for a term of years to pay his passage but for the kind aid of Mr. Plater."[2] This was Colonel George Plater, of St. Mary's county, who had been Attorney-General of the province, and who now took the young Irishman into his law office.

No small part of Dulany's rise was due to his social connections. His first wife, the tradition relates, was a daughter of his benefactor.[3] After her death he seems to have left St. Mary's for the newer county of Prince George's, where he began to acquire land. Soon he married again, this time Rebecca, daughter of Colonel Walter Smith, of Calvert county, by which alliance he established another strong connection with wealthy families in the province.

[2] The oldest document for this story—from which the sentences quoted are taken—is a note on the first leaf of a prayer book, written therein by the owner, Daniel Dulany, 3d (grandson of the first), prior to 1824.

[3] The tradition relates that Dulany married Col. Plater's daughter, but entries in the Maryland records indicate that his first wife may have been Charity Courts. As this first wife died without issue, her identity is rather of genealogical than general interest.

About 1721 he changed his residence to Annapolis, which as the capital of the colony was now entering upon that genial life, which henceforth made it celebrated. With this city he was thereafter identified, and served as vestryman,[4] alderman and recorder.[5] Not long after the death of his second wife, in 1737, he married a third, Mrs. Henrietta Maria Lloyd Chew, widow of Samuel Chew, and daughter of Edward Lloyd.[6] By this time he had won his own position, but for the future of the Dulany family this connection thus brought about with the Lloyds and Chews expanded still further their political and social influence. The same result was attained, also, by the marriages of his children.

Daniel Dulany, like his distinguished son, became the leader of the Maryland bar. After his presumed instruction by Governor Plater, he was admitted to the bar of the county court of Charles county, in 1709.[7] Did the records of St. Mary's and Calvert counties exist, we should doubtless find his admission to practice there also. During the same year, he served as clerk to the Lower House Committee on Laws.[8] This was a chance for a valuable education in politics, and prepared him for the later time when he was himself at the head of that committee.

Next year followed his admission to practice in Prince George's county,[9] and, more important, his admission to

[4] St. Anne's Parish Records, 1722 and 1726.

[5] L. H. J., September 22, 1742 shows he was recorder at that time.

[6] The account of Dulany's life, as given above, is based upon the family tradition, embodied in documents belonging to the various branches. Scharf, in his History of Maryland, Vol. II, p. 545, note, and in his History of Baltimore City and County, Vol. II, p. 904, gives two accounts that differ widely in detail, and refers to no authority for either.

[7] Charles County Court Proceedings, Liber B, No. 2, p. 608. The formal statement, dated August 9, reads: "Mr. Daniel Delaney was admitted and sworne one of the Attorneys of this Court, he having taken the oaths appoynted, and signed the test, etc."

[8] Lower House Journal, November 2, 1709, p. 229.

[9] Prince George's County Court Proceedings, Liber D, p. 320.

the bar of the Provincial Court.[10] About the same time, also, came the first step in his official career; a career which, when followed out at length, illustrates no small part of the constitutional machinery of the province. The office of "Clerk of the Indictments, or Prosecutor of her Majesty's Pleas in the County Courts of Charles and St. Mary's Counties"[11] was, perhaps, not as important as its title would suggest, but it was a move towards the place of Attorney-General, which Dulany obtained about ten years later.[12] During this interval there is little of his personal history to tell. The court records show that he was busily employed in practicing before the provincial and county courts. One item of greater interest appears. In 1716-17 his name is found enrolled among those admitted on February 21 of that year, to Gray's Inn, London,[13] which leads us to conclude that Dulany wished, like many American lawyers from that time on, to add to his knowledge derived from books and to his practical training at home, the advantage of direct contact with the law schools of the mother country. Nor can we doubt that, brief as his stay in England was, he was able to examine the state of political feeling at this time, and that he was affected by the political doctrines which were then in vogue. Upon his return to America he held for a short while the clerkship of Prince George's county,[14] declined reappointment as "Clerk of the Indictments," and after his second marriage moved his residence to Annapolis.

[10] McMahon, Historical View, p. 355.

[11] The commission is to be found in Charles Co. Ct. Pro., Liber D, No. 2, back of volume.

[12] The legal duties of these officers, as regulated by the Act of 1715, Chap. 48, will be found outlined in the index to Bacon's Laws of Maryland, s. v. Attorneys.

[13] Foster, J., The Register of Admissions to Gray's Inn, 1521-1889, p. 362. On the education of Americans at the Inns of Court in Stillé, Life of John Dickinson, pp. 22 ff. Stillé does not, I think, give sufficient importance to the possible influence of the Law of Nature and the theory of natural rights upon English lawyers.

[14] Prince George's County Court Proceedings for that year, *passim.*

To Dulany Governor Hart seems to have taken a dislike. Upon one occasion the Governor expressed to the Upper House of Assembly an indignant complaint that Col. Thos. Addison "has been affronted by Daniel Dulany, a Practitioner of the Law by calling him a little Rascalous Fellow and desires of this House to know what redress can be made to that member Considering that as his Excellency is pleased to observe that the s[d] Col. Addison is an honest Protestant and Lover of the King and Country, and that the s[d] Daniel Dulany is a noted favorer of the Papists."[15] It is pleasant to note that this dire indictment led to no serious results, and that no feud existed between the families of Addison and Dulany.[16] The gist of the matter is that Dulany's social relations and marriages had identified him with some of the old landed families of Maryland, who were not favorable to Governor Hart, and desired his removal. The new Governor, Charles Calvert, was able to smooth matters over, and to congratulate the Assembly on the greater harmony that prevailed.

In this same year Daniel Dulany appeared before the Assembly as counsel in an important land suit.[17] By the next year he had been promoted to one of the greater offices of the province, the first of several which were to fall to his lot. Doubtless as a part of the conciliatory policy of the new Governor, Charles Calvert, he was made Attorney-General,[18] in which capacity he served for many years. This office had been definitely established in the middle of the seventeenth century, and now the Attorney-General's functions copied those exercised by the similar offi-

[15] Upper House Journal, April 24, 1720, p. 664.

[16] For the intermarriage of the two families, see Murray, One Hundred Years Ago.

[17] L. H. J., October 27, 1720. This was related to the boundary dispute with the Penns.

[18] Calvert Papers (MS.), No. 266. In this year we find the title first applied to him. He seems to have surrendered the office before 1744, perhaps when he entered the Council. Letter, May 31, 1744, Dulany Papers.

cer in England, while his emoluments were regulated by an act of 1715.[19] He combined in his duties those of the English Solicitor-General, also. Therefore, he not only was the chief prosecuting attorney in criminal cases, and the representative of the Proprietor in all civil suits to which the latter was a party, but also he was called upon to give his opinion, when demanded by the Governor and Council or either House of Assembly.

Lastly, the best testimony to the legal career of Daniel Dulany is found in the first volume of Harris and McHenry's reports, in which by far the greater number of cases belong to the eighteenth century, and of these, throughout the period of his legal career, a majority are accompanied by an argument or opinion of the elder Dulany.

Dulany's first appearance in the Assembly was in the session which began October 10, 1722, when he served as representative of the city of Annapolis along with Thomas Humphreys. The legislative service thus begun by Dulany continued, in the Lower House, for twenty years, and thenceforth in the Upper until his death. Of the canvass we know nothing, but it seems highly probable that his election was part of a carefully arranged programme. He had just received an important proprietary office, yet the formal procedure of the opening—carefully modelled after that of the House of Commons—had hardly been carried out, when Dulany's name appears in the Committee of Laws; and before long he seems to have become chairman. Of the four regular standing committees[20] which now existed—those of Laws, of Grievances, of Accounts, and of Elections and Privileges—this was perhaps the most important, through its great control over legislation of every sort. In 1715, under the guidance of Andrew Hamilton, then one of its members, this

[19] Act of 1715, Chap. 48.

[20] On colonial standing committees, see Jameson, The Origin of the Standing Committee System in American Legislative Bodies, in American Historical Association Report for 1893, pp. 391-399.

committee, to which Dulany had some years before acted as clerk, had been instrumental in preparing the body of laws referred to above, which "formed the substratum of the statute law of the Province even down to the Revolution."[21]

As suggested above, the labor of this committee, under Dulany's leadership, was chiefly the revival and conduct of the controversy over the extension of the English statutes, which for ten years proceeded through the usual parliamentary routine of bills and resolutions, messages between the houses, and addresses to the Governor and to the Lord Proprietor. To Dulany's resolution, adopted at this session, the reports of the Committee on Laws and other documents, special attention will be given in a future paper.

But this was by no means the only committee of which Dulany was a member. In 1722, for example, he, with his rival Thomas Bordley, was added to a special Committee for Inspecting and Repairing the Public Records.[22] A volume containing the minutes of this committee from 1724 to 1729 is preserved in the Maryland Archives, and to the thoroughness of the commissioners' work is due the preservation of much valuable material that otherwise might have perished. In addition to his work in this committee, and the important labors of the Committee of Laws, to which frequent reference has been made, the records attest Dulany's activity upon many other committees of the Lower House, and joint conferences between the two Houses. Among these, we find committees to originate a friendly correspondence with our neighbors in Virginia, to report a joint address of both Houses, representing the state of trade;[23] to examine into the condi-

[21] Steiner, Restoration, p. 251. McMahon, Historical View, p. 282.

[22] The committee was originally appointed by Act of 1716, Chap. 1. Dulany and Bordley were added by Act of 1722, Chap. 14.

[23] L. H. J., September 12, 1731. Here may be found, in the joint committee's report, details as to the foreign trade of Maryland—or rather an exhibition of the difficulty experienced, even at that time, in getting information as to details.

tion of the jail at Annapolis[23a]; to consider the erection of a public school building in the same city. Such was the routine employment of an eighteenth century burgess. Of Dulany's attitude in the case of the attack on lawyers and on the clergy, mention has been made in the preceding chapters. After this considerable excursus, we return to 1733, and to the Proprietor's visit to the province.

Of the personal contact of Dulany with Lord Baltimore we have no knowledge. In 1733, however, he received the important office of Agent and Receiver-General, and also was appointed Commissary-General, which office he was to hold jointly with Benjamin Tasker. Next year he was commissioned as Judge of the Admiralty and is mentioned alone as Commissary. Inasmuch as by 1736 Tasker appears as Agent and Receiver-General, it seems probable that Dulany and he made a "deal" by which he took the Agency and yielded the Commissaryship. These offices Dulany held many years.[24] In 1742 Dulany was promoted to the Council, where he remained until his death.

We may postpone the description of the functions of these offices for a brief statement hereafter, and continue with Dulany's position in the Assembly. When that body met in 1734, Dulany and three others who had received "Places of Trust and Profit from the Government" were disabled by vote of the Assembly from sitting as members.[25] This doctrine had been enunciated before, in the first Assembly to which Dulany was returned, when his colleague from Annapolis, Humphreys, was permitted to take his seat; but it was resolved[26] for the future that any person that shall after election "accept of any office or pension from or under the Government shall (according to the practice of the British Parliament) be Incapable to

[23a] Printed in 2 Md. Law R. 71.

[24] These commissions are to be found in Liber J. R., Maryland Archives (MS.), No. 82, in Maryland Historical Society.

[25] L. H. J., 1734, March 25.

[26] L. H. J., 1722, October 29.

sit or serve as a member in this house by virtue of such election." This principle, which is a reflection of the Act of Settlement, was too great an advance in political doctrine for the Governor, who lectured and dissolved the Assembly;[27] for which action he obtained the Proprietor's approval, coupled with the advice not to give offices while an Assembly was in existence.[28] To the next Assembly, however, nearly all the former delegates were chosen, including Dulany and two of the three other officers, who were now suffered to take their seats. So the matter ended, with the establishment of a precedent used to great effect in the later years of the Proprietary government. That Dulany's popularity was not involved one may believe from the fact that at the next session not only was Dulany re-elected but was chosen also for Speaker of the House. He excused himself, however, on account of ill health.[29] Four years later, moreover, the county of Anne Arundell, as well as the city of Annapolis, elected him as representative. Forced by the Assembly to elect for which he would sit, he chose the county.[30]

By the Proprietor's visit the stormy agitation of the previous decade was stilled for a few years. From 1732 on the ayes and noes are recorded, and thus the attitude of individuals is much more easily determined than in the earlier period. As one turns the pages of the Lower House Journal during the years from 1733-43, one finds that to a period of good feeling succeeds another era of bitter strife, which develops its fullest intensity in 1738-39. The questions at issue were of a somewhat different character. The tobacco trade, though according to all accounts being still in a low condition for awhile ceases to be of first interest, and the radical party attempts the diminu-

[27] L. H. J., March 25, 1734. See Morley, Manual of English Constitutional History, p. 162.
[28] Calvert Papers (MS.), No. 52, pp. 48-9.
[29] L. H. J., March 20, 1734-5.
[30] L. H. J., 1738.

tion of the Proprietary revenues. Over the tobacco duty for the support of government; over the disposition of money arising from licences for ordinaries or inns; and over that from the fines and forfeitures; over the territorial policy of the Proprietor; over the port duty; over the composition for alienation fines and quit rents; over the fees of licenses; over the proposed Governor's house, and over the fees of officers, the Lower House of Assembly quarrelled with Proprietor, Governor and Upper House. In this period of conflict Dulany was as stout an upholder of the Proprietary interest as, in the English Statutes controversy, he had been of the popular cause. The records of ayes and noes often presents his name as almost alone opposed to the majority in the Lower House. Noticeable also is the fact that he is no longer prominent in committees or joint conferences.[21]

Into the details of most of these struggles it is not the part of this paper to enter. To one, however, that over the officers' fees, reference has been made already, and its connection with the economic situation of the province has been pointed out. In 1733, upon the failure of the Assembly to pass a bill regulating fees, the Lord Proprietor by proclamation established the legal charges of offices, following in general the rates of the law of 1719.[22] Collection was made enforceable by a writ of execution.

Under the influence of the Proprietor's presence the proclamation was accepted without much opposition. But after attempts in 1735 and 1736 the Lower House in 1738 entered upon a violent attack upon the regulation of fees by the proclamation of 1733. On May 16 the Committee of Grievances made a report which declared that the levying of the fees of 1733 produced great hardship, especially

[21] For example, May 29, 1739, Dulany and Calder vote in the negative on the question of concurring with a report of the Committee on Grievances. The vote is to concur: 41 to 2. Again, May 28, Dulany and Hoopes stand 2 to 44 on a question concerning a report on Officers' Fees.

[22] C. R., April 14, 1733.

upon poor tradesmen and artificers, who grew no tobacco and were forced to buy it to pay fees; that by "the Common and Statute Laws of our Mother Country Great Britain which of undoubted right and by the resolves of your honourable house the subjects here have and are declared to have, a right to enjoy," such fees were regulated by courts of justice or acts of Parliament; that in Maryland precedent was in favor of the regulation by the Assembly, and that "Such proclamations or orders of Council were invasions of the fundamental constitution of this province under the royal charter and against the lawful rights and liberties of his Majesty's liege subjects." [83]

Next year the Upper and Lower Houses failed to agree to a fee bill; the Lower House urged a comparison with the fees in Pennsylvania and in Virginia, while the Upper declared its conviction of the Proprietor's full right to settle fees,[84] and obeyed steadfastly their instruction to accept a law for fees only on condition that its provisions should be perpetual. Resolutions of the Lower House declared this requirement too dangerous for them to accept and stated that such exercise of power by the Proprietor was without foundation and inconsistent with the liberty, property and quiet of his Majesty's liege subjects in Maryland.[85] The Committee of Grievances reported as they had the previous year, and then followed a long address from the Lower House to the Governor, enumerating several grievances and attacking especially the Proprietor's prerogative in the regulation of fees, the attitude of the Council, and the use of a negative by that body, composed, with a single exception only, of such as hold the chief offices and posts of profit in the government.[86]

In spite of all these resolutions, many of which in their terms suggest reference to the resolutions of 1722, and notwithstanding subsequent attempts, no fee law was

[83] L. H. J., May 16, 1738.
[84] L. H. J., May 30, 1739.
[85] L. H. J., June 2, 1739.
[86] L. H. J., June 5, 1739.

passed for eight years, when, in the tobacco inspection law of 1747, a table of fees was included.

This controversy of 1739 is of interest, however, not only from its association with the many other grievances of the period, but most of all because in the matter at issue the course of events and the arguments on the respective sides, it anticipates the yet greater battle of 1770-73, when the proclamation of Governor Eden, issued under very similar circumstances, stirred up yet greater strife, and the famous controversy followed between "Antilon" and "The First Citizen," under which pseudonyms were thinly veiled the personalities of Charles Carroll of Carrollton and Daniel Dulany the younger. The popular verdict of the pre-Revolutionary period awarded the victory to Carroll. Whether the technical advantage of law was not with Dulany is still a moot point. But without entering upon that discussion, one readily understands how the younger Dulany, who is remembered for his argument against the constitution[al] and the impolicy of the Stamp Act, should by inherit[ance] and training be forced to support the prerogative in the matter of the officers' fees.

Of Dulany's service as Attorney-General we have already spoken. The office of Agent and Receiver-General, now added to the former, was connected with the position of the Proprietor as territorial lord of a vast fief. How the land system of Maryland was organized at first, and what important changes took place, may be found described at length in Dr. Mereness' "Maryland." Here, therefore, the barest outline will suffice. During the Royal government of the province, the interests of Lord Baltimore as landholder, which previously had been intrusted to a land council, were given into the charge of Henry Darnall, who was called Agent and Receiver-General, the latter title having reference, of course, to the revenues arising from the land.[37] In 1712, while Dulany was mak-

[37] Mereness, p. 61.

ing his first steps in the profession of law, Darnall was succeeded by the founder of, perhaps, the only family which surpassed in wealth that of the Dulany's. This was Charles Carroll, a Roman Catholic, and a thorn in the flesh of the Royal Governors, especially of Colonel Hart.[38] In the bickerings between the representative of the Crown and the representative of the Proprietor, the question at issue was the discrimination between the public and the private functions of the land office; and the result, as Mereness says, "'indicates that the settlement of judicial questions relating to title, the custody of the record of titles, and some control over surveying were public, while little more than those most essential for securing the legitimate revenue were private in nature. This meant that the Proprietor was no longer to be regarded as the absolute lord of a fief, but that with the exception of his having a few extra and unusual sources of revenue (and even the right to those was already disputed) he was only the chief landholder in the province."[39]

No sooner had the government been restored to Charles Calvert than his guardians issued to Carroll a commission with such extended powers as to interfere with the prerogatives of the Governor.[40] This dangerous rivalry was ended by lessening the importance of the Agent; which in turn was brought about by the act of 1717,[41] which gave to the Proprietor, in exchange for the quit rents and alienation fines due from the land, a fixed compensation paid for by duties upon the export of tobacco. Carroll's political power was injured, also, by the laws against Roman Catholics, which, largely through his own fault, were at this time made more severe. This agreement was continued from time to time, though each side thought the

[38] Rowland, Life of Charles Carroll of Carrollton, pp. 2-14. Steiner, Restoration, passim.
[39] Mereness, p. 63.
[40] Ibid., pp. 63-4. Steiner, Restoration, pp. 265-6.
[41] Act of 1717, Chap. 7.

other had the best of the bargain. But in 1733 it was not renewed, and the office of Agent again rose to importance. For the details of Dulany's administration, which lasted only three years, there is little documentary evidence. "None of the successors of Darnall and Carroll were men of such diligence and faithfulness,"[42] is the verdict of Mereness on the later management of the land office. About so brief a tenure as Dulany's it is hard to judge, but if Dulany was not thorough in his work, it is strange that he was advanced to the more important position of Commissary. Moreover, in 1735, the Assembly acknowledged without reservation that they had been mistaken in giving up the agreement concerning the quit rents and alienation fines, which indicates that the claims of the Proprietor had been effectively pressed.

Before passing to the commissaryship, we may cite one illustration of the work which fell to the Agent. In the provinces of Maryland and Pennsylvania, one of the prerogatives of the Proprietor (based upon the analogy of the powers of the King, by the Common Law) was the licensing of ferries. In Pennsylvania this right was disputed by the legislature as early as 1693.[43] Penn in 1684 "had assented to an act establishing certain ferries at the expense of the counties where they were situated. The rates of ferriage were fixed by this act, and it was provided that the profits should be paid into the county treasury. But in case private parties were willing to maintain a ferry at specified localities, they might receive the profits."[44] From this time on the legislature considered this one of its functions and in 1736 resolved that the granting by the Proprietor of licenses to keep ferries and to regulate the rates of ferriage without the concurrence of the legislature was prejudicial to the general interests of the province.[45]

[42] Mereness, p. 65.

[43] Shepherd, History of Proprietary Government in Pennsylvania, pp. 81-82, Columbia University Studies, Vol. VI.

[44] Ibid., p. 82.

[45] Ibid., pp. 82-83.

In Maryland, with its many streams branching into the country, the question of ferries was even more important. Ferries had been regulated by law as early as 1638.[46] When, therefore, about a hundred years later, the Proprietor of Maryland gave instructions to his agent to require ferry owners to secure licenses from him only, trouble arose at once. In 1733 there appears upon the records of Baltimore County Court a letter from Daniel Dulany, the Attorney-General, which imparts the Proprietor's orders to the County Court, to desist from licensing ferries and taxing the inhabitants for the same. Such persons desiring licenses should apply to Dulany, who has express authority as his Lordship's Agent to grant such licenses. The court made the somewhat laconic answer that their right to license ferries has been established by custom, and they will take no further action than to enter Daniel Dulany's letter, his Lordship's instructions, dated June 18, 1733, and their reply, upon the records of the court.[47] This was nullification, with a vengeance! The claim was pushed by the Proprietor, and his further instructions drew from the Committee of Grievances a resolution which appealed to Virginia precedents and declared the Proprietor's action illegal. So great was the opposition that this, like so many other prerogatives of the Proprietor, was, after a while, surrendered.[48]

In 1736 the office of Agent appears to have been given to Benjamin Tasker. This gentleman was another member of the official aristocracy then building up, and when, some years later, the younger Daniel Dulany married Colonel Tasker's daughter, the two families were brought into a still closer "community of interest."

While very many writers have pled in favor of one or another theory as to the religious history of early Mary-

[46] Maryland Archives, Assembly Proceedings, Vol. I, p. 78.
[47] Baltimore County Court Proceedings, 1733.
[48] Mereness, pp. 88-89. That the same attempt was made in other counties appears from a similar entry on the records of Talbot Co. See Harrison, Memoranda of the Annals of Talbot Co., Industrial Annals, Vol. III (Maryland Historical Society, MS.).

land, or have battled over the Toleration Act, entirely too little attention has been paid, until recently, to the institutional relation of Church and State. The office of Commissary-General carries us directly to this relation. The origin of the Commissary's functions—exercised to-day by the Courts of Probate—is very interesting. In England jurisdiction over these matters lay in the ecclesiastical courts, and had the Anglican Church from the first been fully reproduced in the American colonies, the Bishop of London's courts, under the administration of his Commissary's, might here also have dealt with testamentary proceedings. But the colonization of the English people carried with it secularization. In the Royal colonies these functions were vested in the Governors.[49] In the palatinate of Maryland they were included in the princely power given by charter to the Proprietor, who had no idea of yielding them back to the Church, Roman or Anglican, and delegated them, as his other prerogatives, to civil officers of his own choosing.

This civil office of Commissary-General appeared as early as 1638, when it was given by Act of Assembly to Secretary John Lewger, who held it in common with several other offices. In 1673 it was united to the Chancellorship, but after 1715 it was considered separate. Originally an inferior position, it increased in importance until it equalled that of the Secretary. Daniel Dulany the elder was Commissary from 1733 till his death, and when, within a few years after that event, his eldest son was Secretary, and his second son Commissary, the complaint that the offices were tending to become hereditary seems to have had some color of justice. In Dulany's administration, as before, one of the points most criticised was the Commissary's claim that the services of his deputies should carry with them a second fee for passing accounts of the estates of deceased persons. This was bit-

[49] See, in Perry, Historical Collections, Vol. IV, p. 59, Bray's account of Governor Seymour's irritation at the suggestion that testamentary jurisdiction should be given to the Bishop of London's Commissary.

terly opposed after awhile by the legislature, and the matter remained a subject of controversy.[50] In the general performance of his duties, however, Dulany left behind him a record of integrity and kindliness.

Of another of the offices held by Daniel Dulany there is little to inform us, except the lengthy and quaintly worded commission.[51] This he receives from Governor Ogle, "commander in chief in and over the Province of Maryland, and Admiral thereof," and it impowers him "to proceed hear and determine all causes, civil and maritime," and continues very minutely to specify what such "causes" may cover. Of the records of the Court of Admiralty, over which Dulany was thus appointed judge, nothing remains among the calendars and archives of the State, nor are there any cases included in Harris and McHenry which would throw light upon Dulany's judicial conduct. It is not improbable, however, that these court records do exist, unknown, at Annapolis and that with the other court records of the eighteenth century they may be put to good service for information as to the provincial history covered by them.

About the time of his appointment as Commissary, Daniel Dulany was sent upon a diplomatic mission to Philadelphia. This was in connection with the long drawn out litigation between the Penns and the Baltimores over the boundary line between Maryland and Pennsylvania, a controversy which has been thoroughly discussed by so many writers as to make it needless to narrate here any but the most essential facts. Both Daniel Dulany the elder and his son were called upon to act in official relation to the dispute, in its later stages, and their employment in such service may fitly be discussed in this place. In 1732 Lord Baltimore and the Penns arrived at an agreement, which proved, however, to be unsatisfactory, and in 1735 the Penns were directed to

[50] Mereness, p. 244.

[51] The Commission is dated May 22, 1734, and is to be found in Liber, J. R., Maryland Archives (MS.) No. 82, in Maryland Historical Society.

institute proceedings in chancery for the decision of the whole matter.[52]

Meanwhile, towards the close of 1736, the petty warfare which for some time had been waged upon the border between the provinces reached a degree of violence which threatened to bring the two colonies to a passage at arms. Two years before, in May, 1734, the Governor of Pennsylvania had sent to the Governor of Maryland, as Commissioners to discuss some remedy for the existing state of things, Messrs. Hamilton and Georges. They had accomplished nothing, however, because their powers had been very much limited.[53] On November 24 the Sheriff of Lancaster county, Pa., in pursuit of legal process, attempted to arrest Major Thomas Cresap, who dwelt upon the Susquehanna river some distance north of the present boundary line.

Cresap refused to yield, and with five others held his house against the Sheriff's forces. But numbers prevailed and Cresap was taken after he had been wounded and one of his adherents killed. On the other hand, similar charges of violence against Marylanders were made by the Governor of Pennsylvania.[54]

It was to protest to the Pennsylvania government against this lawless state of things that, in December, 1736, Edmund Jennings, the Secretary, and Daniel Dulany, the Attorney-General of Maryland, members of the Upper and Lower Houses of Assembly respectively, were sent to Philadelphia by Governor Ogle. They were instructed to request the assistance of the government of Pennsylvania " for effectually bringing to a just Punishment the inhuman Actors and Abettors of that savage Violence [against the Marylanders], as well as for restoring to Liberty and to a full Compensation for all their Hurts and Damages, the Persons of such who

[52] See McMahon, Historical View, pp. 39-40. Mereness, Maryland. Scharf, History of Maryland. Shepherd, Proprietary Government in Pennsylvania. The Calvert Papers and the Penn MSS.
[53] Colonial Records of Pennsylvania, Vol. II, pp. 547-560.
[54] McMahon, Historical View, p. 40.

were hurried away into Confinement, and perhaps, may be there still detained by that outrageous Multitude."

The Pennsylvanians were firmly convinced that Cresap's house was in the territory of Pennsylvania, and hence that their actions were not subject to review by the authorities of Maryland; the Marylanders were equally confident that he was an inhabitant of Maryland, and hence that his arrest by the Pennsylvania authorities was illegal. Dulany and Jennings were obliged, therefore, to return to Maryland having accomplished nothing.[55]

Two petitions, one from the Governor and Council, and one from the Commissary and clergy of Maryland, elicited an order from the King in Council, bearing date August 18, 1737, enjoining the Governors of the respective provinces to put a stop to the riotous proceedings which had been carried to such an excess. In pursuance of another agreement and another order, issued a year later, a temporary line was run in 1739. This remained the boundary until in May, 1750, the suit in chancery between the Penns and Lord Baltimore was terminated by a decree of Chancellor Hardwicke.[56] In accordance with this order, commissioners were appointed on June 28, 1750, by the respective Proprietaries, those for Maryland being Benedict Calvert, Benjamin Tasker, Edmund Jennings, Daniel Dulany, Robert Henry, George Plater and John Ross. They were to serve until April 30, 1752.[57] These proceedings were, however, interrupted in 1751 by the death of Charles and the accession of Frederick, Lord Baltimore. Opposition on the part of the new Proprietary resulted in more litigation, which was however terminated by the agreement of 1760.[58] By this agreement new commissioners were appointed and the boundary line was determined in accordance with the decree of 1750 and the agreement of 1752. The commissioners for Mary-

[55] IV Colonial Records of Pennsylvania, pp. 115ff.
[56] McMahon, Historical View, p. 41.
[57] Calvert Papers (MS.), No. 153.
[58] McMahon, Historical View, p. 44.

land, as then appointed, were Governor Sharpe, Benjamin Tasker, Jr., Edward Lloyd, Robert Jenkins Henry, Daniel Dulany, Jr., Steven Bordley and the Rev. Alexander Malcolm. The illness of the younger Dulany, and his departure on a trip to England in June, 1761, closed the connection of the family with what in a few years became known as Mason and Dixon's line.

CHAPTER IV

The Tobacco Inspection Controversy

Before the financial disputes referred to in the preceding chapter had reached anything like a settlement, Dulany, who had so zealously supported the proprietary interest in the Lower House, was rewarded with a seat in the Council. This board was composed of men appointed by the Proprietor through the Governor, and the tenure was practically for life. The same body constituted the Upper House of the Assembly, and to its members were entrusted also some of the most important offices of state. Naturally, therefore, it was conservative and aristocratic in its nature, and in the pre-Revolutionary period its members were almost necessarily forced into a Tory position. Throughout the period which we have been considering the Upper House was rather inferior to the Lower in the ability to lead, and Dulany's appointment to the higher body was part of an attempt to reconstruct it on stronger lines.

As ayes and noes do not appear in the Records of the Upper House, it is harder to keep track of the actions of individuals, and this part of Dulany's career must therefore be treated very briefly.

Through the eleven years of Dulany's service events were taking place which would properly demand entirely separate treatment. The rise of the wars with Spain and France brought a greatly increased number of letters and instructions from the Royal government to fill the pages of the Council Records. Negotiations with the Indian tribes also occupied a great deal of attention, notably the negotiations with the Five Nations, and the Indian policy of Conrad Weiser. The military activity of the time involved, of course, the raising of money, and over this Governor and Assembly were continually at war.

To complicate the situation still more, old-time rumors of Romanist plots were revived and the province stirred up afresh against those of that faith. All of these developments, however, look forward for their chief interest beyond the elder Dulany's time, and our attention may be confined to a topic in which he was particularly interested—the economic improvement of the province, and especially the passage of the inspection law.

Not very long after his promotion, on February 1, 1743,[1] an address to the Proprietor from the Governor and Council of Maryland, which had been drawn up by Daniel Dulany, was read and approved. This very able document should be read in its entirety, but here only an abstract may be given. The importance of the tobacco crop to the economic welfare of the province, and the deplorable condition of the staple at the present time lead to the statement that many of the factors sent to Maryland to buy were moving to Virginia, for there they can buy better tobacco, though at a higher price. The French, likewise, who used to buy in Maryland, now prefer Virginia. The accounts of sales of the last year's export confirm the apprehension that Virginia will get all the trade. Moreover, this is not because Maryland is inferior in soil or climate to Virginia, for the reverse is the case.

The cause of the difficulty is the lack of restraint and the unwillingness of the people at large to submit to any. The old difficulty with "trash" continues, and gives Maryland tobacco a bad name abroad. The Virginians after many attempts have made a law which has improved their staple so much to give them all the advantages which they have over Maryland, which "are so evident that even the Common People (who are generally enemies to all restraining Laws) are thoroughly reconciled to and fond of this law," and would consider as an enemy to their country anyone who would deprive them of the benefits derived from it.[2]

[1] C. R., Feb. 1, 1743.

[2] The Virginia Inspection Law of 1730 was continued or amended by no less than seven acts, down to 1745. See Hening's Statutes.

Several attempts to regulate the staple have been made in Maryland, but as they did not serve their purpose and as the people derived no sensible or immediate advantage from them, the people soon grew weary of them and of any legislation, and "it became a generally received opinion that an effectual regulation was quite impossible."

Sometimes a short crop has occasioned a rise in the price which has "induced too many to think that not only a providential but the only remedy." But the increasing difficulties of the situation are now brought home to every one, and all who have examined into the success of the Virginia law are convinced of the absolute necessity of some such regulation here.

To the making an effectual regulation to this purpose there is one great obstacle of which every body is sensible and that is, the specified payments in tobacco which by the present laws the people are obliged to make to the clergy, officers and lawyers, which it would be difficult (if not impracticable) to alter for want of money which obstacle if in some measure removed, would go a great way toward reconciling the people and their representatives to the necessary means of their own happiness and such a legal regulation of our staple as would put it upon an equality with that of your neighbours would in all probability have the desired effect and be equally advantageous to your Lordship and your tenants. The only expedient we can think of or believe practicable is the retrenching the tobacco payments, into which we believe that even the clergy themselves would voluntarily come, notwithstanding the Establishment in their favor, and should the officers or practitioners of the law be less forward to contribute to the publick good, than others, it would render them odious to all mankind and occasion the calamities of the country to be imputed to them; nor would the odium stop there; as to such of ourselves as are entitled either by the offices we hold or our profession, to tobacco fees, we beg leave to assure your Lordship that we would most readily and cheerfully, was it necessary, sacrifice part of our income to the welfare of our country, but in the present case we believe that we should be gainers if a proper regulation was to take place, as the value of what we should then receive would in all probability exceed what we can now hope for.

Besides the pleasure of a happy people, the proposed improvement would have the advantage of inviting new comers into the province in great numbers, and would increase the demand for back lands, "as well as make the present inhabitants to enlarge their possessions and pay their rent." They are fully persuaded of the right of his lordship to fix officers' fees and would avoid doing anything which

might incroach upon his rights. They therefore request his Lordship's concurrence in their desires to the happiness of your tenants.

Almost the same phrases were used in a private letter to Lord Baltimore, written probably about the same time. "I am informed," says Dulany, "that the clergy have declared that they will come into any measures that can be thought proper to relieve the country. Should your Lordship's officers show less forwardness to contribute their parts to the common good, it would render them odious to the whole country and occasion all its misfortunes to be imputed to them. . . . I would cheerfully give up a part of the fees which I am entitled to as a lawyer, as well as part of the profits of the office which I have the honour to hold by your Lordship's favour and bounty, in so pressing an occasion."[3]

Some years were still to elapse before the remedial measure of a thorough inspection law could be successfully carried through. With 1745 we can go again to the Maryland Gazette, where we find in that year and the next a spirited discussion concerning the tobacco situation.

Several letters appear, some arguing for an inspection law, some against it. Nearly all are pseudonymous, and some exhibit excellent literary style. "A. B.," "Q in a Corner," "P on a Pinnacle," "Q. B." urges vehemently the pros and cons, and later "A. B." wins alliterative commendation as "the generous advocate for an Inspection Law, who foiled Mr. Q in his corner, Mr. Q. B. and all the Quibblers of the opposition."[4] "A Maryland Planter" continues his argument with a paragraph on the evolution of man from a state of nature, while not long after "A Planter" writes that he has no experimental knowledge of trade, "the few ideas I have of the general nature of it being communicated to me by Mr. Locke and some other authors who have built on the foundation of that great man, whose writings, when

[3] Dulany Papers (MS.) in the possession of the Maryland Historical Society. This collection is of more value for the personal affairs than for the political career of Dulany.

[4] Gazette, June 29, 1748. Was this Dulany?

tobacco bore a price, I was enabled to send for from England, and with which I used to amuse myself at the leisure hours I could then spare from my plantation, tho' now, as our staple is sunk into such contempt, I can neither afford to purchase books, nor spend any time in reading those I have."[5]

The most solid of these contributions is an anonymous essay on the means of improving the trade of Maryland, which in the Gazette of June 2, 1747, receives a cordial endorsement from Daniel Dulany, and in the winter of the same year is published at length.[6] The author comments on the greater care of the Virginians, praises their inspection law, warehouses, and tobacco rates. For Maryland he urges the limitation of the export of all tobacco to two ports, which would also be the chief markets for British goods imported into the province. Thither the planters would resort, men of large fortunes would manage trade, who would not find it necessary to sell when the market was glutted, and the number of ships loaded at one time would be sufficient to ensure a convoy. That the author is well read appears from his quoting Child's Observations on Trade and from his citing for illustration the policy of Colbert in France. More original, perhaps, is his argument as to the effect of such an arrangement upon other sorts of trade, wherein he bears witness to the development of a new economic period by his emphasis upon the grain trade not only in Maryland, but from Pennsylvania. As to the future of these ports, with their shipping and shipbuilding, he is most sanguine, and declares that they will become great cities.[7] He even suggests the employment of the women and children in making up flax for ordinary use, and holds that this

[5] Gazette of June 23-30, 1747.

[6] Beginning Dec. 9, 1747. The number for June 29, 1748 has a humorous and fantastic sketch of the various authors in the Gazette.

[7] We may note in passing that the town of Baltimore, then in its infancy soon fulfilled much of the prophecy of this able letter-writer.

will be advantageous to Great Britain as increasing the demand for finer goods.

This paper, then, takes its place along with Dulany's address and the earlier documents such as "Sotweed Redivivus," by which the public opinion of Maryland was moved towards a proper regulation of the production of tobacco. After all the difficulties which have been described throughout these pages, this goal was finally reached in 1747,[9] when "An Act for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the limitation of Officers' Fees" constituted, as it were, a colonial "Omnibus Bill."

Unfortunately, the text of this law is very hard to find. In accordance with the usage, the text is not given in the journal of either house, and Bacon's Laws of Maryland, usually so helpful in regard to important legislation, fails us here. Bacon states that it was to be in force five years from December 1, 1748, and that another act bearing the same title was passed in 1753,[9] to continue five years more. Then a continuing act was passed,[10] to continue the original act and other amending laws[11] to Dec. 1, 1763. In this latter year Bacon gives the text of the act in full, covering forty-nine pages of his volume.[12]

Consequently it will be better to give a brief resume of the law of 1763, and this is especially reasonable, since with its expiration in 1770 began the famous contest over officers' fees that had to do with Governor Eden's proclamation. Coincident with this arose the struggle over the Vestry Act, for the clergy claimed that upon the expiration of the law of 1763 that of 1702 was re-established and that they were entitled to their full "forty per poll," which claim of course aroused great opposition and much legal controversy, which were unsettled when the Revolution came, except for a com-

[9] Act of 1747, Chap. 1. [9] Act of 1753, Chap. 22.
[10] Act of 1758, Chap. 7.
[11] Acts of 1754, Chap. 1; 1754, Chap. 3; 1755, Chap. 7.
[12] Act of 1763, Chap. 18.

promise in 1773, which re-established the lapsed inspection act and gave the clergy for the future only 30 lbs. of tobacco, but made no decision as to the validity of the act of 1702, which the opponents of the clergy now called in question.

The text of the law gives ample testimony to the influence of the Virginia inspection laws. Some of the most important provisions are as follows:

No tobacco should be exported in bulk, or taken on board ship at any other place than some public warehouse, after due inspection by officers provided for that purpose. Of these public warehouses some eighty were named, at each of which there should be inspectors appointed by the Governor out of nominees chosen by the vestrymen and churchwardens wherein the warehouse lay. For each inspector a salary in tobacco was provided. The chief duty of the inspectors was to uncase and break every hogshead cask and case of tobacco, and where the contents were found well conditioned, merchantable and clear of trash, the tobacco should be weighed in standard scales, and the hogshead, etc. also weighed, and stampt and marked with a hot iron, on the head or bulge with the name of the warehouse at which the tobacco is viewed and also with the tare of the hogshead cask or case, and quantity of nett tobacco therein contained. The tobacco should be cased and nailed immediately after inspection. No inspector should pass tobacco between the last day of July and the first day of November, unless such tobacco was brought to the warehouse before the last day of July. Very severe penalties were laid upon any infringement of these and other regulations. The legal size of hogsheads is specific and weights and scales are regulated.

Upon delivery and inspection of the tobacco the inspectors were required to deliver to the person bringing the tobacco promissory notes for the full quantity, specifying the kind of tobacco; which notes were declared to be current in all tobacco payments, in the county where the tobacco should be inspected. No tender of any debt or duty payable in tobacco should be accounted lawful, unless made in inspector's notes. All tobacco due and payable for public and county levies, parochial charges, and all officers' and attorneys' fees, which should not be paid and discharged in gold and silver should be paid at warehouses in the localities, county or parish where they fell due or where the person lived who owed payment.

The clergy were to receive a levy of 30 lbs. of tobacco per poll instead of 40 lbs., less 5% for collection by the sheriff. Officers and attorneys sending their lists and accounts to the sheriffs of the

several counties for collection should deduct 10 per cent "for conveniency," out of every 100 lbs. of tobacco paid in discharge of all officers' and attorneys' fees, and public and county levies, when paid in tobacco, there should be an abatement to the payer of 10 lbs. of tobacco per centum. Clerks of the courts should make the same allowance in taxing costs. For the ease of the inhabitants of the province in paying public and county levies, a deduction of one-fifth should be made out of all the tobacco due (save officers' fees), with which the public are chargeable. And all persons chargeable with the remaining four-fifths and the officers' fees regulated as aforesaid, and all other public dues to pay the same in gold and silver, as regulated by this act. From all debts "that did arise" due before May 16, 1747, payable in tobacco, one-fourth might be deducted, if paid in inspected tobacco at the warehouses.

Other details govern notes, bonds, etc. Those who swear that they have made no tobacco might pay off taxes and fees in gold and silver as regulated by this act.

One of the most important parts of the act was that which established a table of officers' fees, specifying minutely the legal charges of each officer. With reference to another cause of trouble the deputy commissaries, also, were authorized to pass accounts of estates to the amount of £150 without any special commission from the commissary-general.

There is found, also, a table showing the rates in tobacco at which species of gold and silver coins should pass; while regulations abound also, for preventing the presentation of trashy tobacco for the proper nailing and casking; for limitations upon the inspectors, etc.

This was then a very far-reaching piece of legislation. Besides the three-fold purpose expressed in its title, the reduction of the clergy's salary, the general provisions regarding debts—so greatly in favor of the debtor class—and the adoption of the tobacco notes are points especially worthy of notice. The fortune of this law was much better than that of its predecessors. It was not long before its advantages were manifest and opponents were converted to its support. From the clergy, however, discontented complaints were still heard, for which Hawks feels called upon to censure that body. Hawks speaks[15] of the Act of 1747 as merely con-

[15] Hawks' Contribution, Vol. II, p. 226.

tinuing the act of 1730 which permitted one-fourth of the assessment of tobacco for the clergy's salary to be paid in grain or money at the option of the planter; but that this is a mistake, and that the provisions of the Acts of 1747 and 1763 were the same is shown by a letter to the Bishop of London from Reverend Alexander Adams, of Stepney Parish, in Somerset county, who complains that they have not only deducted one-fourth of the 40 of tobacco per poll, but have given liberty to the lazy to pay what remains in 12s. and 6d. paper currency for 100 lbs. of tobacco, which is not nigh the value of tobacco at present,[14] and he urges the Bishop to speak to Mr. Onslow, Speaker of the House of Commons, that such act should not be renewed. The next year he alleges that "this fatal law has picked my pocket about £200 during the five years it existed." [15]

Mr. Adams was now a very old man, and could not, perhaps, see things in a fairer light. In somewhat refreshing contrast is the sentiment of Dulany, expressed in the private letter to Lord Baltimore, quoted above. The parson states one important fact that does not much favor his cause, i. e. that the value of tobacco had risen. Of this result of the inspection law we have proof in the recorded prices of tobacco, and Mereness has already quoted an item in the Gazette which testifies to the improvement in the weight and quality of Maryland tobacco.[16]

[14] The letter is to be found in Perry, Historical Collections, Vol. IV, pp. 326-7. The date is Oct. 5, 1751.
[15] Ibid., pp. 327-329. Sept. 29, 1752.
[16] Maryland Gazette, Aug. 20, 1752. Mereness, Maryland, p. 118.

CHAPTER V

Dulany and Immigration

That excellent remedy, the tobacco inspection law, was not, however, the only cause of the economic improvement which changed the distress of the second quarter of the eighteenth century into the prosperity of the third. At least two other elements must be noted: first, the production of other things than tobacco, and second, the extensive immigration of other than the old English stock.

The advisability of cultivating more than the one staple product was not in the least a new discovery. Throughout the seventeenth century, both in Virginia and in Maryland, the Assembly had recognized the necessity of some variation in the crop, but nature was stronger than law, and little could be done. For example, attempts were made to produce naval stores, and especially hemp, but the results were unsatisfactory. As far back as 1664 a memorial to the Lords of Trade led to the removal of the duties upon importation from the plantations into England of hemp, pitch and tar,[1] while a year earlier Governor Charles Calvert set an example to the Maryland planters by cultivating, in addition to wheat, oats, peas and barley, some quantities of flax and hemp.[2] The legislature encouraged the production of all these commodities, often by giving them a fixed value as currency: as for example, in 1682 (the year of the plant-cutters' riot in Virginia), when corn, wheat, oats, barley, rye, peas, pork, beef and bacon were all made legal tender for all debts, etc., except for the Proprietor's rents and the public levies.[3] Such laws as this had been passed before;

[1] Bruce, Economic History of Virginia, p. 393. Lord, Industrial Experiments in the British Colonies of North America, p. 5.

[2] Calvert Papers (printed), Vol. I, p. 246. Mereness, Maryland, p. 120.

[3] Sparks, Causes of the Maryland Revolution of 1689. J. H. U. Studies, Vol. XIV, p. 558. Sparks gives references to the items in the Council Proceedings.

the raising of flax and hemp had the additional encouragement of a bounty, besides the quality of a legal tender for debts. Bounties were offered, also, for the production of the best manufactured pieces of linen. For a brief period woolen manufactures were subsidized. None of these measures had any great results, nor was much accomplished by a discrimination which freed hands producing other crops than tobacco from their share of the tax levied, between 1717 and 1733, in composition for the Proprietary quit rents and alienation fines.[4]

The activity of the Lords of Trade resultant upon the war of the Spanish succession and the bounty act of 1705 led to an attempt to produce for naval stores not only hemp but tar and pitch.[5] Nor yet in this direction did Maryland progress very far. Everyone knew how to raise tobacco, and something—if only credit— could be gotten for it, therefore these attempts to stir a conservative agricultural people from the ways of their fathers were unsuccessful. But the laws that were passed, and the continued efforts for better ones, show that the wiser minds of Maryland were sincerely trying to improve the condition of the province. Among these men Dulany took his place. In 1731 he introduced a bill to encourage the making of linen cloth, within this province, of flax and hemp and of the growth thereof;[6] while later his interest appears in a somewhat humorous way, when we learn by an advertisement in the Gazette[7] that he desires to gain possession of certain "Essays by the Dublin Society towards the better culture and manufacture of flax," a volume which, apparently, he had loaned to someone else.

The development of a distinctly different form of agriculture was not to be successful until a new element was added to the population. Throughout the colonial period individ-

[4] Mereness, Maryland, p. 121.
[5] Lord, Industrial Experiments in the British Colonies of North America, p. 65.
[6] L. H. J., July 17, 1731.
[7] Gazette for March 3, 1746-7.

uals or small groups of other than English people had come into the province, and the statute book contains many laws for the naturalization of such persons. But by the end of the Royal government the lands in the tidewater sections of Maryland had been pretty well taken up, and when in the eighteenth century there came about the immigration of the Germans into America it was generally the back districts of the seaboard colonies in which they were permitted to settle. In Maryland, Dulany, like many of his official companions, had, very early in the opening of his career, given much attention to the acquisition of large tracts of land. In 1729 he advertised that he had lands in three counties, Prince George's, Baltimore and Kent, which he desired to lease upon moderate terms.[1] These he increased by subsequent purchases and patents in other counties. The most important results followed the investments made in the western part of Prince George's county, which at that time constituted the western frontier of Maryland, and which later become Frederick county.

The wisdom of this policy, though much doubted at the time, was speedily vindicated. Eddis, writing from Annapolis in 1771, after describing the region around Frederick, proceeds: "Frederick Town is the name of this settlement. Within fifty years, the river Monocasy, about three miles to the Eastward, was the extreme boundary of cultivated establishments, and Mr. D—, father to the present Secretary of the Province, was much censured for having procured consederable tracts of lands in the vicinity of that river, which it was generally supposed could not even repay the trifling charge of the purchase, for many succeeding generations."[2]

That his acquaintance with this section, and with Baltimore county, was the result of personal observation, is shown by a letter which, in 1744, he wrote to Lord Baltimore: "I have not been long return'd from a journey into the

[1] Maryland Gazette, Annapolis, 1729. In 1746. Sept. 9, he advertises that he has walnut wood for sale—to saw into plank.
[2] Eddis Letters, p. 99.

back woods, as far as to the Temporary line between this Province and Pennsylvania, where I had the pleasure of seeing a most delightfull County, a Country My Lord, that Equals (if it does not exceed) any in America for natural Advantages, such as a rich and fertil Soil, well furnished with timber of all sorts, abounding with lime stone, and some fit for building, good slate and some Marble, and to Crown all, very healthy." [10]

For some time before this, large numbers of Germans had been migrating westward through Pennsylvania, and many of them found their way into Maryland. Direct immigration to the latter province also had been encouraged by the Proprietor and his advisors.[11] Dulany, convinced that the exclusive cultivation of tobacco was a disease slowly but surely draining the economic life blood of the province, used every effort to increase this immigration of a class of settlers devoted to general agriculture.

A curious document found in the Calvert Papers, a "Translation from Dutch Languidge transmitted to us by Mr. Dulany" and signed by twenty-five names, relates that

"We whose names are hereunto subscribed, all natives of Germany, by this do acquaint our Countrymen with our Settlement (some years since) in ye province of Maryland, into which Province we came from Pensilvania for ye sake of better Land, and easier terms, and we assure you, that the Land in this Province is very fertile and produces every thing in great Abundance, we here Enjoy full Liberty of Conscience, ye Law of the Land is so constituted, that every man is secure in ye enjoyment of his property, ye meanest person is out of reach of oppression, from ye most powerfull nor can anything be taken from him without his receiv-

[10] II Calvert Papers, 116.

[11] In the Calvert Papers (MSS. No. 52, pp. 54-5), is to be found a form in French designed to instruct possible immigrants in the terms proposed by the Lord Proprietary. This mentions Rotterdam as the chief point of departure, in Europe, and emphasizes as inducements to colonization, the protection of their rights by law and from religious persecution.

ing satisfaction for it, all such of our Countrymen who have an inclination to settle in this province and will be industrious, cannot fail of a Comfortable Subsistance. One of the Principle Gentlemen of this Country, Mr Dulany, who Lives at Annapolis, the Capital of this Province, was so kind as to assist us with 306 Pistoles and to free us from ye Captain's power, we are persuaded that this Gentleman will be Serviceable to aid and assist all Germans that will settle in this Province." [12]

The earliest large settlement of the German immigrants seems to have been that at "Monocacy," near the present Creagerstown in Frederick county. In 1745, the town of Frederick was laid out on part of "Tasker's Chance," a tract of 7000 acres, patented by Benjamin Tasker in 1727, and sold to Daniel Dulany in 1744. The remainder of this grant was sold by Dulany in tracts of 100 acres or more, at a rate generally much lower than the purchase price. This has been thought to indicate that he acted as agent for the people who had already settled upon the land and had perhaps acquired some rights therein.[13] However this may be, he became thoroughly identified with the interests of this section of the country, and when Frederick county was set off from Prince George's in 1748, he was made chief of the County Justices or Commissioners.[14] To the town of Frederick Dulany gave many gifts of land for churches and other public institutions.

One feature of the booming of this western town is truly mediæval. In a Gazette of 1747[15] Dulany advertises that "the subscriber hath obtained a Patent for keeping a Fair at Frederick Town near Monocasy on the 21st day of October and the 10th Day of May next, each Fair to continue three days, and for a Market to be held there every Saturday after the first of November next. All persons who will

[12] Calvert Papers (MSS.), No. 52, p. 115.
[13] Schulz, First Settlements of Germans in Maryland.
[14] Frederick County Court Proceedings, 1748-9.
[15] Maryland Gazette, No. 123, Sept. 1, 1747.

bring any Goods, Merchandize, Cattle or any thing else to the Said Fair or Market to sell shall be free and exempt from the payment of any toll, stallage, Piccage or any other charge for the term of Five years next ensueing this last day of August, 1747.—D. Dulany."

In spite of the liberal promises made to them, these German colonists did not escape the pressure of the feudal land rights of the Proprietor. In 1748 several Germans presented a detailed list of grievances against the Sheriff of Prince George's and complained of the forcible exaction of their back rents, even threatening to leave the province.[16] In the constitutional struggles which marked the closing years of the Proprietary government, these western counties were active on the Democratic side, and already exhibited some of those characteristics, political as well as economic, which differentiated this from the older section of the country.

How great was Dulany's interest and influence in introducing these colonists into Maryland could require no better statement than is given in an old letter book, now in the possession of the Maryland Historical Society. Herein are contained the letters written in the months October, 1752 to October, 1753, immediately before the attack of illness which caused his death. In several of these letters he devotes considerable space to the German immigration, and two of the twenty-one are directed to agents in Rotterdam. Of the very great extent numerically of this addition to the population we gain some idea from his statement that "we have had about a thousand of them this fall,"[17] and as to the details of the commerce in the Germans the following excerpt may be of interest:

"The masters," he writes to Rotterdam, "who have the command of these ships ought to be very carefull of the provisions, to be kind and humane to the people and to see that

[16] Upper House Journal, June 7, 1748.
[17] Letters to Calvert, Annapolis, October 30, 1752.

everything is kept clean. These things are the more necessary as the Germans are quite ignorant of the necessary conduct in a sea voyage, and are naturally very dirty. I shall be glad to serve you [if you] send any more this way, but it will be quite necessary for you to direct what you would have returnes for [*sic*] when money is not to be had. You know the staple of the country is tobacco, besides which wheat, bread, flour and lumber may be had as cheap as in Philadelphia and often cheaper, as they have vast quantities of wheat from this province which as I have often been assured is much better than any they have of their own growth."[18] The Germans, he adds, shall receive protection.

The last years of Dulany's life were spent in a period of transition. On the economic side we have seen the agitation and passage of the inspection law, with its excellent results; the importation of the Germans and the development of a general agriculture. Were we to examine further we should find other developments of equal interest, for example, the increase in the settlements away from the tidewater region led to the development of more extended and better constructed highways, a process which reached its highest point many years later, in the building of the National Road. Coincident with this evolution is the growth of towns, especially of Baltimore, in a country where previously no town life of any importance has been known.[19] The interest long expressed with reference to the mineral resources of the colony also began to show more tangible results.

In politics, likewise, the old order of things was passing away and changes were in the air. In 1751 the old Pro-

[18] Letter to Messrs. D——— [illegible] & Co., Merchants in Rotterdam. Annapolis, Dec. 29, 1752.

[19] For these economic changes in general, see, besides Mereness, Maryland, Part I, Chap. IV; Lincoln, The Revolutionary Movement in Pennsylvania, Chapters II-IV. The special topics of the growth of the roads and the development of Baltimore are treated more fully by the present writer in Highway Legislation in Maryland and its Influence on the Economic Development of the State, and in the Chapter on Baltimore, in Historic Towns of the Southern States, ed. by Rev. L. P. Powell.

prietor, Charles, Fifth Lord Baltimore, died and was succeeded by Frederick the last but one of the Lords Proprietary, much given to travel, authorship and horse racing. In 1753 Ogle's long and somewhat broken regime came to an end and Horatio Sharpe became Governor.[20] The old question of the Pennsylvania boundary approached its final solution, and in its place arose the dispute with Lord Fairfax over the boundaries of the latter's grant, which bequeathed a long-standing territorial controversy to the governments of Virginia and Maryland.[21] The Ohio Company had already been formed, and soon came the clash between Frenchmen and Virginians which opened the long conflict of the French and Indian War. The part which Maryland played externally was limited by her internal dissensions, which resulted from the continuation of the attack of the Lower House against Proprietary prerogative.

After this war, to the grievances cherished against the Proprietors was added gradually disaffection towards the government of Great Britain, and in the Revolution King, Parliament, Church, and Proprietary, together lost their political authority over Maryland.

In the intervening period the official system of the colony, including even the Governor's Council, was in the hands of members of the Dulany family and their kindred. While his brother Walter held the Commissaryship, Daniel Dulany the younger was Secretary of the Province. How the latter opposed the Stamp Act in a weighty pamphlet, which Lord Chatham was glad to quote; how he nevertheless re-

[20] Dulany to Hanberry & Co. (Letter Book, Sept. 4, 1753), writes "Our Gov'r arriv'd the tenth of last month & is very well liked by those who have seen him which gives me hope his government will be agreeable as he really seems to be a good-natured man, of a frank, open temper and free from affectation, and far from being greedy."

[21] McMahon, Historical View, Chap. I, pp. 49-72. See also a very interesting newsletter from Dulany to Cecilius Calvert (Letter Book, Dec. 26, 1725), which refers extensively to both of their boundary questions. In the same letter is valuable reference to the Anti-Roman Catholic scare, which arose again with the rumors of war.

fused to follow the popular party into revolution, and with respect both to Proprietary and to Imperial politics remained a Tory; how he debated at length, with Charles Carroll of Carrollton, the legality of another proclamation like that of 1733—all this belongs to another period of Maryland history. But neither the questions then at issue nor the status of the landed office-holding aristocracy can be rendered truly intelligible without an account on the one hand of the economics and politics of the preceding epoch, and on the other of the man who founded the ruling family. To give such an account has been the endeavor of this paper.

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